# CRIMES AND PUNISHMENTS: JUDICIAL INSTITUTIONS IN 17TH AND 18TH CENTURY MARATHA COUNTRY

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*in partial fulfilment of the requirement*

*for the award of the degree of*

**DOCTOR OF PHILOSOPHY**

**ADITYA SHARMA**

**CENTRE FOR HISTORICAL STUDIES**
**SCHOOL OF SOCIAL SCIENCES**
**JAWAHARLAL NEHRU UNIVERSITY**
**NEW DELHI-110067**

**2023**

Centre for Historical Studies
School of Social Sciences
Jawaharlal Nehru University
New Delhi-110067, India

Date:

## DECLARATION

I, Aditya Sharma, hereby declare that the thesis titled **"CRIMES AND PUNISHMENTS: JUDICIAL INSTITUTIONS IN 17TH AND 18TH CENTURY MARATHA COUNTRY"** submitted by me to the Centre for Historical Studies, School of Social Sciences, Jawaharlal Nehru University, in fulfilment of the requirements for the award of the degree of **DOCTOR OF PHILOSOPHY** is my work.

The thesis has not been submitted for any degree at this university or elsewhere.

**ADITYA SHARMA**

## CERTIFICATE

We recommend this thesis be placed before the examiners for evaluation.

28/6/2023

**Prof. Umesh A Kadam**
**(Supervisor)**

Centre for Historical Studies
School of Social Sciences
Jawaharlal Nehru University
New Delhi - 110067

28.6.23

**Prof. Heeraman Tiwari**
**(Chairperson)**

प्रो. हीरामन तिवारी / Heeraman Tiwari
अध्यक्ष / Chairperson
ऐतिहासिक अध्ययन केंद्र / Centre for Historical Studies
सामाजिक विज्ञान संस्थान / School of Social Sciences
जवाहरलाल नेहरू विश्वविद्यालय
Jawaharlal Nehru University
नई दिल्ली / New Delhi-110067

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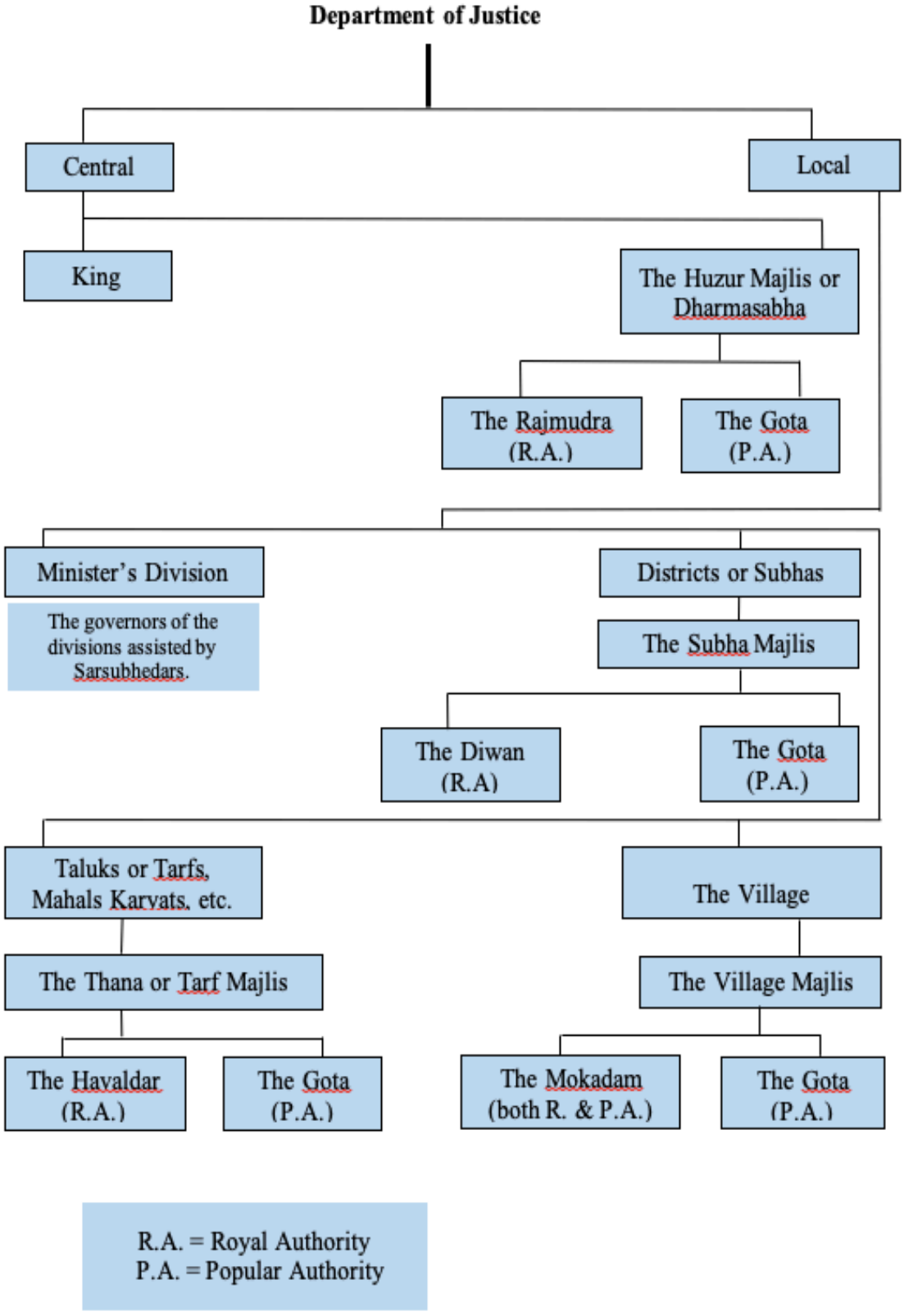
*I must confess that all the faults and errors that are there in this dissertation are my own for which I take full responsibility.*

***Aditya Sharma***

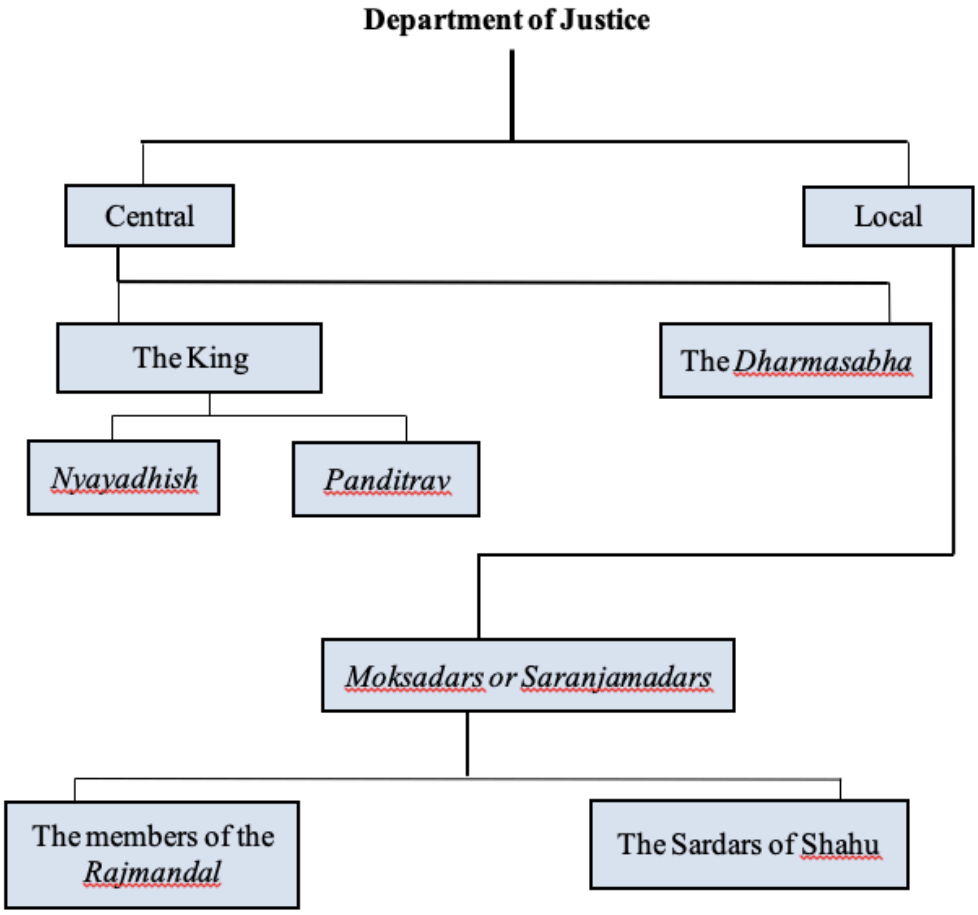
**JUDICIAL INSTITUTIONS UNDER THE MARATHAS (1650-1708 A.D.)**




***Source:*** V. T. Gune, *The Judicial System of The Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Poona, 1953.

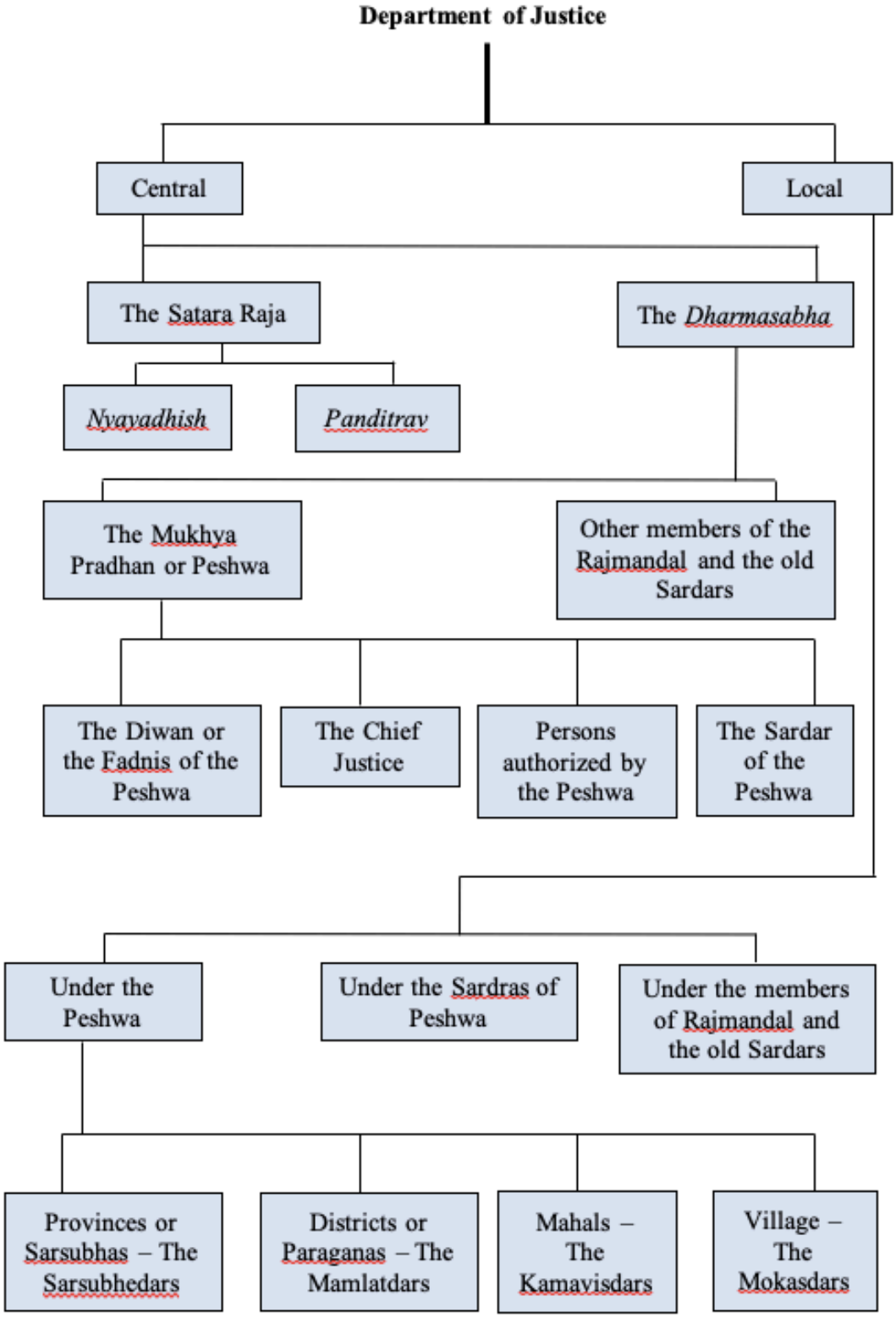
**JUDICIAL INSTITUTIONS UNDER THE MARATHAS (1708-1750 A.D.)**

**(FEUDALISATION OF JUSTICE)**




***Source:*** V. T. Gune, *The Judicial System of The Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Poona, 1953.

## JUDICIAL INSTITUTIONS UNDER THE MARATHAS (1708-1750


Department of Justice
Central
Local
The Satara Raja
The Dharmasabha
Nyayadhish
Panditrav
The Mukhya Pradhan or Peshwa
Other members of the Rajmandal and the old Sardars
The Diwan or the Fadnis of the Peshwa
The Chief Justice
Persons authorized by the Peshwa
The Sardar of the Peshwa
Under the Peshwa
Under the Sardras of Peshwa
Under the members of Rajmandal and the old Sardars
Provinces or Sarsubhas – The Sarsubhedars
Districts or Paraganas – The Mamlatdars
Mahals – The Kamavisdars
Village – The Mokasdars

***Source:*** V. T. Gune, *The Judicial System of The Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Poona, 1953.

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# INTRODUCTION

The study of crimes, punishments and judicial institutions throughout history has not presented a uniform set of structures and sources of law to solve conflicts. Sources of the Maratha period repeatedly report that the Maratha administration restored order in its domain by punishing the evildoers, rebels, and ring leaders of disturbances and wretches. Many general histories have included chapters on the various judicial institutions and numerous cases that pertain to the law and order of the given times. These sources throw light on different kinds of crimes and punishments for diverse and often similar cases. They record punishments related to numerous cases of rebel, religious matters, criminal and other civil suits. It is noteworthy that apart from the records of the cases, evidences, and judgements in the form of *Mahzers* and *Nivadpatras*, great importance was laid on rituals and traditional practices that were an essential part of the proceedings of these trials. However, these institutions remained a subject of reform with the changes the society and polity of the time underwent. It should never be assumed that even though reforms and changes were brought in the judicial institutions, crime would have been delineated from society. However, it is clear that punishments for different crimes and, at many a time, for similar crimes depended upon the geographical, social, political, administrative, and even financial conditions of the people.

By the middle of the 18th century, the Marathas effectively controlled a large part of the peninsula, extending its controlling hands even to the northern parts of India. Shivaji has to be credited for this entire control. However, by the mid-18th century, the *Chhatrapati* at Satara was increasingly allowing his powers to be exercised by his principal minister, the Peshwa from Pune. But various subordinate chiefs also claimed parity with, or autonomy from, the latter and administered justice according to their lights.[1] These changes in the seat of power from the Deccan Sultanates to the Peshwa were eventually reflected greatly in the judicial administration of the region.

[1] Sumit Guha, *Wrongs and Rights in the Maratha Country; Antiquity, Customs, and Powers in Eighteenth century India,* Crime through Time, ed. Saurabh Dube and Anupama Rao, Oxford University Press, New Delhi, 2013, p. 4

A society that is based on written codes of law, cases may be solved via analysis of these codes. However, there would remain the problem of determining how far those codes would express the conceptions of various social groups at the time and the more difficult issue of establishing the extent to which the codes actually governed social practices. This would be the case in a territory with defined boundaries and a unified legal system. Still, the issue becomes more complicated when we consider a region of shifting political boundaries, often indefinite jurisdictions, where several unwritten and written bodies of law and custom could be invoked or set aside, as the case may arise. This was the case of Maharashtra in the 17th and 18th centuries.[2]

The nature of judicial institutions, crimes and punishments are crucial aspects for evaluating a society's cultural, social, administrative and moral well-being. A focused study of these institutions promises to reveal new aspects of understanding the administrative and political nature of society. The evolution of judicial institutions over time also suggests an interesting correlation between the nature of rule established by the State and the corresponding development and popularity of justice delivered to the subjects depending upon situations and the nature of crimes. A detailed study of crimes, punishments, and the nature of judicial institutions can serve as a good litmus test in examining the community as a whole.

The topic of crimes and punishments in the Maratha Country has remained an important area of research in recent times. The history of judicial institutions in the western part of medieval India was constructed by the path-breaking work of V. T. Gune[3], who masterly used the available sources from the 14th to the 18th centuries AD. There have been various attempts in the past decades to master this field, including notable works from Finch, Nigam, Singha and Radhakrishna[4], which cannot be ignored. However, most of these

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[2] Sumit Guha, *Wrongs and Rights in the Maratha Country; Antiquity, Customs, and Powers in Eighteenth century India,* Crime through Time, ed. Saurabh Dube and Anupama Rao, Oxford University Press, New Delhi, 2013, p. 4

[3] V. T. Gune, *The Judicial System of the Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Pune, 1953.

[4] J. Finch, *Cheap Lives and Dear Limbs: The British Transformation of the Bengal Criminal Law 1769 – 1817*, F. Steiner, Wiesbaden, 1983; S. Nigam, *"A Social History of a Colonial Stereotype: The Criminal Tribes and Castes of Utter Pradesh, 1871 – 1930",* School of Oriental and African

works have primarily concentrated on the colonial period. The study of crimes, punishments and judicial institutions has remained aloof from the mainstream discourse. There remain areas in this field that can still be filled by looking into various aspects of crimes and implications of punishments on the socio-political sphere of the Maratha Country as a whole and administration in particular. There are opportunities that can be developed in seeing institutions from the spectrum of socio-political dimensions.

The histories of the Marathas can be best studied through source material like the *Bakhars*, State papers, Court histories, Chronicles, and accounts of contemporary travellers who had visited Maharashtra during the period of the Marathas. Modern historians have worked hard and constructed the history of the land and the people through these available sources. Scholars like Rajwade, Khare, and Kashinath have published some of the major original documents like the *Bakhars*, *Sanads*, letters and other State documents.

Regarding the source material of the mentioned period, ample documents are available from the Peshwa period compared to earlier records. Amongst the major sources, official papers, dairies, accounts, *shakavalis*, etc., are important for constructing this work.

The *Bakhars* are news or records of happenings in the Modi Script. It is also called the biography of eminent state men of the period. There are controversies regarding the authenticity of these *Bakhars*. However, Harwadkar contests that these documents mostly resemble the histories of the time and the task of a scholar remains to inspect and interpret the fact and fiction scientifically to convey the right facts.

Many Bakhars have been written for the study of crimes and punishments, and the judicial administration of the Peshwa, the Peshwa *Bakhar* and the *Shahanavkalmi Bakhar* is more important.

*The Peshwa Bakhar*: - It is said that Shrinivas Daji, a well-wisher of the Peshwa family, ordered Krishnaji Sohoni to note down all important incidents of all Peshwas till the decline of the Marathas in 1818. Krishnaji Sohoni discharged his duties towards the Peshwa family

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Studies, University of London, Ph.D. Thesis, 1987; R. Singha, *A Despotism of Law: British Criminal Justice and Public Authority in North India*, University of Cambridge, Ph.D. Thesis, 1990; M. Radhakrishna, *Surveillance and Settlement under the Criminal Tribes Act in Madras*, Indian Economy and Social Science Review, xix 1992.

with much love and caution in language and style in writing rather than caring about historicity.

*The Shahanavkalmi Bakhar*: - This is the *bakhar* written by an unknown writer, but it was part and parcel of the official records of Anno Datto, a *sachiv* of Shivaji. He was the officer who carried revenue survey of the Konkan area under the guidance of Chhatrapati Shivaji. This *bakhar* deals with all political events of the Marathas. After considering its originality, Chandorkar published it in his periodical, *Prabhat*, an important source of Maratha history.

Other Marathi sources are in Modi script, which deals with official letters from the Peshwa Daftar. There are a series of documents which are available. *Selections from the Peshwa Daftar;* Vols. 2, 3, 17, 22, 23, 30, 31, 32, 38, 39, 43, 45. These are available at the Poone Archives. Volume III of the *Selections from the Satara Rajas' and the Peshwas' Daftar* of Kashinath Balkrishna Marathe is a voluminous record of the functioning of the judicial system under the Marathas. It extensively deals with civil and criminal crimes and punishments of the time. There are *Miscellaneous papers of Peshwa Balajirao* published in the Selections from Peshwa Daftar that are important in understanding the working of village level judicial system of the Marathas. S.S. Desai's work *Marathyanchea Itihasachim Sadhne* vol II and III gives us many important information about the history of Marathas. The collection of documents of various suits and judgements provides an important insight for the study.

Elphinstone Mountstuart's *Reports On The Territories Conquered From The Paishwa* is an important source for understanding the judicial administration during the time of the Peshwas. Although Elphinstone was a resident at the Peshwa's court from 1811 to 1818 and the Governor of the Bombay Presidency from 1818 to 1827, he prepared a report of "Territories conquered from the Peshwa" in 1821. He provides in-depth and valuable information on subjects of Maratha administration and governance in matters related to revenue, police, justice, economic conditions, religious conditions etc., and there provide insights on the past methods of governance in the region during the time of the Peshwa.

He has commented extensively on the system of Panchayats, village-level judicial authorities and the course of judicial proceedings at the central level at Poona and the local levels of villages and parganas. However, he stays very critical of the entire system and

these administrative apparatuses, which extends him to draft many changes during his Governorship in Bombay. The information gathered by him on the functioning of the Peshwa period provides a base work for understanding the judicial institutions prevalent during the time.

Captain Grant Duff came to India in the third decade of the 19th Century and worked as a political agent of the British Government at various places under the Governorship of Elphinstone. He was able to refer to various original papers of Marathas placed in several places. While working as a revenue officer at Satara, Grant Duff had been in direct access to all the papers like Bakhars and diaries kept in the Satara archives. Chhatrapati Pratap Singh, the descendent of Chhatrapati Shivaji, helped him in every possible manner and handed over all the important state papers. Thus, Grant Duff has written three volumes on the Marathas, which are treated as important source material for the history of Marathas.

Grant Duffs' *History of Marathas,* published in 1863, sharpened the ongoing debate. It talks about the rise of Shivaji and the Maratha history up to the conquest of the British in 1818. This was probably the first work that talks about the nature of the Maratha political system and the character of the ruling elites, i.e. the Marathas and the Brahmins. He gives a detailed account of the rise of Shivaji to the nineteenth century. His main focus is on the political history of the Marathas. He shows his keen interest in the wars and battles, the factions at court, and who won and lost. Other aspects, particularly economic and social, form only small parts of the narrative. His work mainly focuses on the head of the polity, the ruler, and the ruling class, like some of the most powerful men who were his commanders. Although Grand Duffs' History of Marathas does not provide any direct linkages with the judicial system of the Marathas, it informs about the basic structures through which justice may have been delivered during the prescribed period. He informs us about the appointments of the *Nayayadhish* and the process of decision-making in petty cases that were made by the local judicial and administrative bodies.

**Historiography**

The history of judicial institutions in the western part of medieval India was constructed by the path-breaking work of V. T. Gune[5], who masterly used the scarcely available sources from 1300 - 1800 AD. The book has attempted to present the judicial institutions of the Marathas, with special reference to their historical developments, constitution and working, which has been traced through the original decisions that were called the *Mahzars* or *Nivadpatras*, and orders of the local administration, issued by government officers, from time to time. However, chronologically, the subject is limited to only between 1600, when the Maratha sardars secured high and responsible positions in the Ahmednagar court and Bijapur kingdoms, till 1818 AD when the Maratha power finally ended. Talking geographically, the book pertains only to the region of the Deccan tableland of the Marathi-speaking area.

Gune's book has been divided into eight chapters. Chapter I, II, and III deals with the historical development and constitution (composition, power and functions) of the central institutions of justice. Chapter IV deals with the indigenous institutions of justice. In Chapter V, Gune has given a detailed description of the functioning of these institutions and judicial procedures. Further, chapter VI of the book pertains to criminal justice and expiations. In the next two chapters, Gune has outlined the various machinery employed for the prevention of crime and punishments.

The books, however, have given more importance to fact-finding than to drawing a conclusion or providing an analysis of the functioning of these institutions. With the help of original documents available to Gune, he has provided a narrative study of judicial institutions, various types of crimes and their related punishments. Gune, however, does not provide any analysis of the functioning of these institutions, nor does he provide any argument related to the functioning of these institutions from the period of Shivaji to even the changes that came later during the Peshwas. However, the book is a landmark in the study of judicial institutions of the period.

[5] V. T. Gune, *The Judicial System of The Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Poona, 1953.

S. N. Sen's[6] book is useful in understanding the patterns of administration during the Maratha period. The book has been divided into four different sections, each dealing with levels of administration at the local and the centre. The third section of the book titled deals with the judicial institutions, prisons, administration of justice, punishments conferred to offenders and their relatives, procedures in civil suits, trial by ordeal, evidence and their role in delivering justice etc.

Sen compares the European institutions with the Marathas regarding rules and regulations, particularly the English. He says that the rise of the Peshwa destroyed the solidarity of the constitution, which Shivaji's *Ashta Pradhan* Council was expected to maintain. He further asserts that in the original documents that he has referred to, he finds that the Marathas had an excellent set of regulations for their empire. However, he contests that these regulations and administrative institutions were not their inventions but they had inherited them from their Hindu and Muhammadan predecessors. It is of surpassing interest that the survival and development of the old Hindu administrative system, illustration and interaction of Hindu and Muslim principles on each other helps to understand the growth of the British Indian administrative institutions, partly engrafted as they were on old Hindu and Muhammadan System.[7]

Sumit Guha[8] has given us some valuable insights about Crimes, punishments and the nature and functioning of these judicial institutions during the time of the Marathas. In his article, 'An Indian Penal Regime: Maharashtra in the Eighteenth Century', Guha provides details about the distribution of penal jurisdiction (central and regional) and talks about the various roles of local judicial officers and the role of evidence. Sumit Guha also says that one needs to consider the extent to which scriptural law, whether Islamic or Brahmanical, may have influenced the penal practices to be examined. He argues that with regard to criminal justice, this influence was very limited.[9] However, the central theme of the article revolves

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[6] S. N. Sen, *Administrative System of the Marathas*, Ananda press and Publication Pvt. Ltd. Calcutta, 1925, pp 7 – 8.

[7] Ibid.

[8] Guha Sumit, *An Indian Penal Regime: Maharashtra in the Eighteenth Century*, Past & Present, No. 147, Oxford University Press, 1995.

[9] Ibid., p103.

around the kinds of punishments in civil and criminal cases. He has divided punishments into four broad categories of fines, imprisonment, mutilation and death penalties relating these punishments to various circumstances and cases.

In yet another article, Guha[10] introduces the traditional customs that were the source of rights of the people of Maharashtra. He says in a literate society that has a unified code of laws, there can be solutions to legal problems, although the problem would still remain of how far it would stand to do so. But the issue of law would have become more complex and varied when we consider a region of shifting boundaries and often indefinite jurisdiction, in which several written bodies of law would be invoked or set aside. He concludes that this shifting of the region and indefinite jurisdiction was the condition of eighteenth-century Maharashtra. Therefore, he stands to the conclusion that antiquity, customs, and the past balance of social power were the main source of rights of men. Defiance, which was unlawful.

Rosalind O' Hanlon[11] , in her article, writes about the panchayats in the pre-colonial period in Western India and is convinced that it represented a judicial forum of great antiquity in which the petitioners were able to gain local and direct access to justice. She says that during the early modern centuries, a diverse array of state-level and local corporate bodies made up the landscape for the submission of petitions and the hearing of suits. Although many of the suits were local in nature, the process of hearing and adjudication itself gave these judicial spaces a significant 'public' dimension, and their forms of arguments frequently invoked general principles of justice and moral order. The Maratha state, based in Pune, sought firmer control over revenue and justice. State officials promoted the panchayat as a new type of judicial arena, weakening the local corporate institutions and tying them more closely to the Pune court. It is observed that with their deep local knowledge and familiar principles of procedure, traditional panchayat assemblies retained a great degree and confidence of the people.

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[10] Guha Sumit, *Wrongs and Rights in the Maratha Country: Antiquity, Custom, and Power in Eighteenth – Century India*, Changing Conceptions of Law and Justice in South Asia, Oxford University Press, New Delhi, 1997.

[11]Rosalind O' Hanlon, *In the Presence of Witnesses: Petitioning and judicial 'publics' in western India, circa 1600 – 1800*, Modern Asian Studies, Cambridge University Press, Cambridge, 2019.

Karine Bates[12] , in her article, talks about the overlapping local jurisdiction. She argues that the *Dharmashashtras*, a respected ancient system of written law, did not operate as the unifier of the legal system on the territory which became the Indian nation. She says that the Peshwa had their own system of court, ruling along with the caste council. The Peshwa government had ultimate decisional powers with it, even in matters of matrimonial conflicts and sexual misconduct, indicating that the State had supreme control over the people it governed. The article further gives examples of suits indicating the kinds of crimes and punishments inflicted depending upon caste lines. It sums up the conclusion that the Maratha judicial system enforced Brahmanic rules, especially for Brahmans.

## Chapter 1: Introduction to Judicial System, Crimes and Punishments in Maratha Country in the 17th and 18th Century

To understand the judicial system and the system of crime and punishment of the 18th century, it is essential to study the same systems during the 17th century. There were changes in the State and the institution during the period from the 17th century to the 18th century. During this period, there was a shift in the throne of power from the Deccan Sultanates (first half of the 17th century) to the Maratha kings like Shivaji, Sambhaji and Rajaram. These systems further went under considerable changes when the power of the Maratha administration shifted from Satara to Poona under the Peshwas. Under the Peshwa, the existing judicial bodies that administered justice were overlooked, and new bodies for administering justice were created.

When Shivaji was enthroned at Raigad in 1674, the immediate result was the organisation of his cabinet council, known as the *Astapradhan*. One of his central council ministers was the *Nyayadhish,* or the Chief Justice. There were two types of administrative bodies that were constituted at the time to administer justice, first at the centre and second at the local level.

At the Centre, the king was the ultimate authority and the judicial head of the Maratha power. He designated two special ministers as central judicial heads - the *Nayayadhish* (chief justice) and the *Panditrao* (minister to administer religious matters). In

[12] Karine Bates, *The Indian Legal System: A Unique Combination of Traditions, Practices and Modern Values*, Communication, Culture and Confrontation, Sage Publication, New Delhi, 2010.

*Dharmasabha* (judicial assembly), the king was assisted by his ministers (Rajmudras) in every suit.

At the local level, the *Majlis* and the *Gotasabha* had judicial authority over suits, present in all decisions. This was an invention of Shivaji and continued till the time of Shahu. V. T. Gune[13] says that these *Majlis* performed the same duty that was performed by the jagirdars and their appointees for administering justice during the Sultanate period. State officials always referred the local suits to *Majlis* and *Gota* from the Deccan Sultanate to Shahu's reign.

It was only under Shahu that his chief minister, the Peshwa replaced the king's authority and became the chief judicial authority assisted by the *Diwan* and the *Fadni*s. He modified the earlier judicial mechanism. *Nayayadhish* and *Panditrao* were now just the denominative heads. The *Dharmasabha* had also become a titular body. The *Rajmandal* and the *Rajmudra* were also ignored. In some regions, military chiefs and members of the *Rajmandal* tried to maintain influence over the judicial mechanism in their assigned regions. In the beginning, the Peshwas practised their judicial authority through the *Majlis* and tried to examine the suits with the help of the Gota. But after the death of Shahu, the Peshwas took the service of the Panchayats as the chief judicial body replacing the *Majlis* and the *Gota* at the local level. The Panchayats became the core of examining suits. All local officials, including the *Sarsubhedars*, *Subhedars* or *Mamlatadars*, *Sethe Mahajans* and Patils, were ordered by the government to get the suit solved through the Panchayats. They dealt with both original and appellate cases. However, it is said that the decisions of the Panchayats could not be valid unless duly signed by the State.

The panchayat was a body of respectful villagers who, as Sen argues, had no knowledge of the *Shastras* and conjunctions that were given by the Hindu lawgivers, such as the Manu, Yajnavalkya etc. For any case that arose, the members of the panchayat were chosen by the parties involved. It could vary from a least member of three to a maximum number of fifteen. The number in a few cases even went to eighteen. They were selected by the parties

[13] Gune V. T., *The Judicial System of The Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Poona, 1953.

involved in the cases. The *Nivadpatra* that was awarded by the panchayat had the seal of the State.

On the other hand, the indigenous judicial institutions, there were their primary institutions, known as the *Gotasabha*, the *Jatisabha* and the *Brahmasabha*.

The *Gotsabha* was based upon local judicial administration, namely, *Pargana Gotsabha*, *Tarf, Kashba Gotsabha* and the village *Gotsabha. Pargana Gotsabha* was headed by the Deshmukh and Deshpande, who dealt with the fiscal, judicial and police mechanism of the Pargana. They had members of different artisanal groups. The *Tarf Gotsabha* had the authority to deal with cases of the *Tarf* or *Kashba* headed by the Patil. Whenever the cases were not solved by the Kashba Gotsabha, it was referred to the *Pargana Gotsabha*.

Next in line to the local judicial body was the *Jatisabha*. It was a caste assembly that administered only those cases that were related to violation of caste regulations. Every caste had its own caste assembly or *Jatisabha* that examined offences within the same caste or different caste. Every caste had a headman, who was the head of the *Jatisabha*. Whenever cases could not be solved by the *Jatisabha*, they were referred to the *Dharmasabha* by government officials.

The third local judicial body was the Brahmasabha, and it was a body of learned Brahmins that generally included *Mimamsak*, *Jyotish*, etc. the main duty of *Brahmasabha* was to deal with cases that were related to social and religious matters of the Brahmins. They were also an advisory body for other local judicial bodies. Whenever any suit was not being solved by the *Gotsabha* or the *Jatisabha*, the *Brahmasabha* was requested for advice. Therefore, the *Brahmasabha* can be understood as a body of Brahmins that administered cases related to the Brahmins, along with it acting as an advisory body of the other two local judicial administrations.

It is to be noted that from the time of the Peshwas, i.e. from the second half of the 18$^{th}$ century, all cases were dealt with under the supervision of the Panchayat. The panchayat was the supreme body at the local level that administered justice. The Peshwa was to be present in the suits, but since the Peshwa could not make himself available for all the cases that occurred on a daily basis, he made the Diwan and the Fadnis available on his behalf, who would make every report of the cases.

Every case was recorded and well-documented. There were witnesses examined, and their statements were put on record. There were procedures even for the witnesses before they could present themselves to the Panchayat. Usually, he would have to bathe himself in a river, a sacred well of the village and then perform his prayers before he could finally give his statement. There were various rituals that were put into account for the parties involved in the cases. In cases of confusion, S. N. Sen says that the Marathas believed in divinity and faith to solve cases. Many of the cases were solved by taking promises from the members of valuable things and articles in their lives. Swearing by their parents, wife, and children was very common. There were other divine ordeals of *Agnidivya*, bathing in heated ghee etc.

In Maratha Country, crimes were considered a sin. Getting involved in cases also meant a sign of impurity. Therefore, there were various ways of *prayaschita* that were performed. For one who had to be re-accepted into their society, a person involved in cases had to perform rites of *prayaschita*. This could be in the form of cash payments to the Brahmins, feeding a certain number of people from the caste and Brahmins etc.

It is understood that in Maratha country, an offender had to go through a dual system of punishment, one by the State and the other by the society, in the form of purification.

My first chapter examines in details these systems in detail. The changes that came in the Judicial Institutions from time to time, the in-depth examination of these individual judicial institutions and the kind of punishments that were inflicted upon in similar cases.

**Chapter 2: Exploring the Maratha Judicial System: Origins, Characteristics and Variations of Panchayat**

By the middle of the 18$^{th}$ century, the Marathas effectively controlled a large of the Indian Peninsula, extending their control even to the northern parts of India. The powers of the Marathas were demarcated between two regions - at Satara and at Poona. The Chhatrapati at Satara was increasingly allowing his powers to be exercised by his principal minister, the Peshwa from Poona. These changes were eventually reflected in the judicial administration of the regime. The Panchayat System under the Maratha regime was an extremely popular form of judicial administration during the Peshwa era. This was an assembly of individuals who were selected to administer justice and resolve disputes

between the litigant and defendant. It was believed that their selection provided a fair, impartial and honest trial and judgement.

The characteristics of the Maratha Panchayat deal with its composition, structure, and roles and responsibilities of various local and central officials within the judicial system. The chapter investigates the decision-making processes employed by the Panchayat. Furthermore, the chapter explores the variations in the Panchayat, highlighting the regional distinctions and local customisations with the social, political and cultural influences that shaped these variations.

The functionality of the Panchayat is explored, focusing on its role in disputes, resolutions, adjudication, mediation and conciliation. Additionally, the socio-legal aspects of the panchayat are examined to understand their broader societal impact.

The level of judicial administration during the Peshwa era was matched by the level of the Panchayat. Each official's tasks, domain and rights were clearly defined. There could not be any interference in other's domains. The panchayats functioned independently and provided their services to the government free of cost.

The chapter contributes to a comprehensive understanding of the Maratha Judicial System, shedding light on the origins, characteristics, and variations of the Panchayat. The chapter further highlights the historical development and functional aspects of the Maratha legal framework, enhancing the role of the Panchayat at various levels.

**Chapter 3: Unravelling the Maratha Judicial System: Norms, Functionality and Procedural Insights of the Panchayat**

The judicial system that developed in the later part of the Maratha era was an important and the most popular system in the field of justice during the Peshwa period. In the political, social and religious spheres during the defined period, the decision of the panchayat was very important. Panchayat was accepted as a concept of a 'five-faced God'.

There functioning of the Panchayat started by summoning the defendant after the complaint of the Plaintiff. After the formation of the Panchayat, there were selected places that were seen as the seat of the Panchayat. These Panchayats were generally held in public places. A public place would mean traditional places of worship, which would be a village temple,

near a mosque, or at a traditional peepal tree. The selection of traditional places for the gathering was crucial for the validity of the panchayat and its proceedings.

Proper documentation of the procedures of the panchayat was an essential part of the system. The testimony of the witnesses was very important in administering justice. The witnesses had to perform certain rituals before they could represent themselves in the entire process.

The judgements of the trial were presented to the parties, which would enlist the summary of the entire proceeding of the trial with the final award of judgement in the form of Nivadpatra duly signed by the members of the panchayat. The final decisions of the panchayat were mentioned in the paper, and if the persons involved in the process were not educated enough to read them, it was clearly read out to them for them to be satisfied. The Nivadpatra mentioned the charges and the related final decision of the panchayat. The Nivadpatra was made into two copies. One of it would be awarded to the victorious party, and the other would be sent to the Peshwa for the record. It is to be noted that the award paper had to be signed by Peshwa, the head of the judicial administration. There was no validity of the Nivadpatra unless signed by the Peshwa. While preparing the Nivadpatra, the name of the holy deity was mentioned on the available paper.

The decisions of the Panchayat were important, but it was certainly not binding upon the members. There were further provisions of appeal to higher/central authorities.

## Chapter 4: The Maratha Judicial System: A Comparative Study of Centralised and Fragmented Approaches to Justice Administration

Maratha's power was one of the most important across much of India through much of the 18$^{th}$ century. It was the last of the Indian kingdoms to be defeated by the British colonial regime. Even after the defeat of the Maratha rulers, the area was treated as a separate administrative unit for almost a decade before it was finally brought under the Bombay Presidency.

At the end of the long wars, a new Maratha State was created, which was "…neither a compact kingdom nor a series of compact fiefdoms." Several competing centres of power were created and continued to be created under the Peshwa regime. All these elements jealously guarded their powers and rights in what they considered as their patrimony,

'granted' by a higher authority like the Chhatrapati or Peshwas. The profession of a judge, how much part-time it was, still yielded substantial income to the one who delivered justice. The cash-trapped Maratha officials and Sardars were ever ready to act as mediate in any case which would reward them with Harki, Sherni or Gunhegari court fees.

From its very inception under Shivaji in 1674 to the time it finally fell under the British Colonial regime in 1818, there were monumental changes that came out in the functioning of the judicial institutions. While there were changes that were incorporated in these institutions under Shivaji, where the administration of justice was taken over by the *Nayayadhish* (chief Justice at the Centre) and the *Panditrao* (judicial head for religious matters at the centre) and at the local level by the *Gotsabha*, *Jatisabha* and the *Brahmasabha*. With time during the Peshwas, these institutions had become relatively dormant, and the administration of justice was done with the help of the Panchayat. The role of the panchayat stands important to be noted because, by the middle of the 18th century, this panchayat was not a permanent body that looked into the judicial affairs of the State. It was engaged rather on an ad-hoc basis, with changing members of the panchayat for each case.

There are two circumstances that pertain to this debate of whether the institution was centralised or fragmented. One is that during the time of Shivaji, the administration of justice was carried out by the above-mentioned bodies, but it is not clear whether the final authority of the State (official seal of the State on the *Nivadpatra*) was necessary because this was a compulsion during the time of the Peshwa. The Peshwa himself was supposed to be present during cases or send the Diwan or the Fadnis on his behalf to consider the proceedings, whose primary concern was to take a record of the proceedings of the cases, pieces of evidence, etc. While it is true that the decisions of the Panchayat were to be reported and authorised by the State (office of the Peshwa), it is also true that this was only a ritualistic power that was enjoyed by the Peshwa. While it can be said that the ritualistic powers were in the hands of the Peshwas, the real power of administrating justice was in the hands of the local administration.

In a fragmented state system, each institution is equal to the other institution, both in terms of authority exercised within it and in terms of accepting the authority at the centre. The differences lie in the degree of central control exercised over these individual institutions.

While he (the king/Peshwa) had direct control of the central judicial system, his sovereignty was accepted at the local levels making him a ritualistic head.

Whereas in a centralised system, the ultimate authority of the State has direct control over its institution. In the case of the Peshwa, we see that he maintained his position of extreme control over the panchayat as no Nivadpatra was valid unless his seal was entrusted upon it.

The actual power of administering institutions remained in Shahu's hands (in the hands of the Chatrapati), but he delegated this authority to his prime minister, the Peshwa. The Peshwa was to act only in the name of the Chhatrapati and never as an independent authority. Thus it can be said that the Chhatrapati was the ritual head of the judicial institution, with the real powers in the hands of the appointed Peshwa. The Peshwa further too appointed different sardars. By the later part of the 18$^{th}$ century, the frontier of the Marathas extended under various leaders, and more sardars became prominent. This marked the division of the region into more segments.

However, substantial leniency was shown whenever one party was a powerful individual belonging to a prominent clan, to risk full for the weak State to interfere. These elements also delivered their own 'justices' as they deemed fit. None, not even the Peshwa, sometimes dared to question them since political expediency overweighed concerns about the proper conduct of justice. The Peshwas, his allied Sardars, and the old nobility all exercised their own justice in ways they deemed fit.

The alienation of judicial rights went to further levels when even private individuals could apprehend and 'punish' lawbreakers. Merchants and bankers became an important class of people under the Peshwas, who relied on them to collect taxes and provide funds for the never-ending military campaigns. Creditors 'arrested' defaulting debtors to retrieve their dues. The Maratha State, while tolerating such actions, interfered when the creditors went so far as to 'execute' the defaulters.

It is important to understand the judicial institutions of these newly acquired regions. While S. N. Sen says that the Marathas did not interfere much in the judicial functioning of the local regions, it remains unclear of this interference. Whether these regions came under the

judicial intervention of the Peshwa and no Nivadpatra was valid until the seal of the State, or were these locally administered.

Sumit Guha, in his article,[14] says that in some areas, there was even a jurisdiction shared with another sovereign. The Maratha records exhibit cases in which the fees and fines levied were duly shared with another power. The State itself was tolerant of adjudication or arbitration by unofficial authority, provided the revenue arising out of these cases was remitted to the State. In one of the cases, Satvoji Gavde, a commander of the government cavalry, was addressed in 1783 - 4, 'You consider and settle people's quarrels and disputes. The fines, fees and debt recovery charges that have occurred, and will occur, you will credit to the account of the unit in your charge.'[15]

The Marathas, however, did try to create a centralised judiciary throughout its realm, descending from the royal court from above. Shivaji had his Rajmandal and Nyayadish. The Peshwas had their Kotwal system. And throughout its existence, legal treatises and compilation of old civil and criminal cases were occasionally created, probably with the intention that one day, a proper judicial apparatus could be created. However, political instability gradually affected the ability of the Maratha State, paralysed all its wings, including the judiciary, and the Maratha State effectively ceased to exist by the year 1818.

Therefore, this chapter scrutinises whether the prevalent judicial institutions were actually centralised as they needed the final authority from the State or fragmented because there were other judicial bodies that were also involved in administering justice, and the Peshwa was only a ritualistic head.

## Chapter 5: In Pursuit of Justice: Crimes, Punishments and the Role of Judicial Institutions as Defence Mechanisms in the Maratha Judicial System

The Maratha Empire, spanning the 17th to 19th centuries, witnessed the emergence of a sophisticated judicial system aimed at maintaining law and order within its vast territories.

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[14] Guha, Sumit, *Wrongs and Rights in the Maratha Country; Antiquity, Customs, and Powers in Eighteenth century India,* Crime through Time, ed. Saurabh Dube and Anupama Rao, Oxford University Press, New Delhi, 2013, p4.

[15] Parasnis D. B., *Selections From the Satara Rajas and the Peshwas Diaries*, Vol. VIII, Indu Prakash Press, Bombay, 1906, p129.

Crimes and punishments played a crucial role in the empire's defence mechanism, while judicial institutions provided the framework for dispensing justice.

The primary objective of the Maratha Empire was to deter potential offenders and maintain law order and social harmony by holding offenders for their transgression. Punishments were designed to instil fear in individuals and discourage them from committing crimes. The severity of the punishment often corresponded to the gravity of the offence, with harsher penalties reserved for more heinous crimes. This principle aimed to create a sense of fear and deterrence among the population, thereby reducing the incidence of criminal activities.

Crimes were categorised based on their severity and impact on society, and their punishments were then decided. Various punishments were inflicted on the defaulters, and they were made to abide by the customary laws of society.

The Maratha regime did use imprisonment as a punishment, although fines remained the chief form of punishment irrespective of the crimes. Usually, they were detained in rooms called *Bandikhanas* or *Adabkhanas* at the forts. Detaining suspects for investigation and convicts until their fines had been realised was common. This was made possible by the rich penal resources that were available in the form of numerous hill forts in the territory. These hill forts needed regular maintenance and construction in various areas, and above all, it was necessary to keep in mind that these were in regular use and not abandoned.

Imprisonment was a cheap labour force for the maintenance of these forts. Prisoners, both men and women, could be usefully employed and cheaply detained. Since, according to customs, brahmans were generally exempted from capital punishments, the chief imprisonments were generally inflicted upon them on account of their caste. Sumit Guha asserts that in addition to these prisoners that were under trial, there were long-term prisoners that were detained at the king's pleasure.

Cases indicate that these prisoners were used in maintaining the forts' structures. In one of the cases, Yesa was imprisoned and was doing building work until his fate was decided. In other circumstances, the prison was used to detain offenders until their fine was not recovered. Even during the trial, the accused were kept at the hill forts. In a few cases, we observe that political prisoners were kept under strict vigilance and not allowed to meet

anyone. It was only offenders of other crimes, the brahmins (both men and women) and the accused, that were kept under loose observation.

Sometimes detention was seen as necessary to restrain misconduct. In 1794 - 95, Kashi, wife of Trimbakji Chavan, resident of Navasa, abandoned her husband and household and came to Pune, where she engaged in prostitution (*badkarma*); therefore, she was imprisoned at Saragad for, and the judicial order said, confine her there, do not allow her to develop any liaisons there, and do not allow anyone to take her for his household work. Make her work on the buildings etc., and give her the customary allowance of food.[16]

On the other hand, fines were of significant importance for the generation of revenue. There were a series of famines reported in 1655, 1682 and in 1684 that added up to the deteriorating economic condition of the region. Situations were unfavourable economically as the Marathas were cornered by continuous internal chaos and several bouts of threat, initially from the Mughals and then from the Portuguese. They had to maintain a large army to keep themselves safe. All of these needed a full treasury. Therefore, during these crucial times, fines generated from judicial institutions provided a space for the Marathas to breathe. While it was kept clear that fines would be collected in accordance with the paying capabilities of the offender, it was visible that these fines were collected whenever there was any case that was brought before the authorities. These collections were in the form of Harki, Shreni or Gunehgari.

While punishments in prisons created the base for the defence of the regime, fines protected the Marathas economically. Fines helped replenish the treasury, which in return supported the administrative machinery, including the maintenance of the judicial system and the salaries of the judicial officials. Imprisonment helped in the construction, maintenance and keeping of the numerous Maratha forts occupied and free from capture.

[16] Parasnis D. B., *Selections From the Satara Rajas and the Peshwas Diaries*, Vol. VIII, Indu Prakash Press, Bombay, 1906, p106

## Chapter 6: Women's Position in the Maratha Judicial System: Analysing the Roles of the State and the Family in Shaping Judicial Rights

The position of women in the judicial system of the Marathas was influenced by the legal frameworks and the socio-cultural structure of the society. In spite of patriarchal norms prevalent in the Maratha society, a woman's presence was seen beyond her domestic responsibilities.

The legal system within the Maratha system offered her opportunities to seek redress for grievances through legal channels, although her active participation in the legal processes was varied. Her access to judice was influenced by social norms, customs and on the basis of male-dominated legal institutions.

The Maratha judicial administration was influenced by traditional customary laws and the sastras. These laws forbade certain punishments from being inflicted upon women. Women were strictly restricted from capital punishment. Fines, imprisonment and rare cases of mutilation were inflicted upon them. There are cases that provide resolutions to disputes and judgements in relation to her spaces in domestic affairs, false accusations, her position as a widow, Polygamy, bigamy, and in cases of adultery.

Excommunication was the common punishment awarded to adulterous women. Adulterous women of higher castes lost their communities and homes, as well as their social status and were compelled to resort to prostitution or remain as slaves (Batiks) with their violators. There are suits that showcase women being pushed to rigorous imprisonment.

While taking women's judicial proceedings, her position and circumstances for her in the entire scenario were primarily focused upon. In most of the cases, the identity of the woman was not revealed. They were rather mentioned with their relation to their male counterparts, by the relation of their in-laws, parents etc.

Even though women had been provided all the opportunities to seek justice in the Maratha regime, cases indicate that she was undoubtedly considered the property of the house that she belonged to. Defaulter women in prison could be purchased for the purpose of men.

# CHAPTER 1

# INTRODUCTION TO THE JUDICIAL SYSTEM, CRIMES AND PUNISHMENTS IN MARATHA COUNTRY IN THE 17TH AND 18TH CENTURY

To gain a comprehensive understanding of the judicial system during the eighteenth century, it is crucial to examine the judicial system of the preceding seventeenth century. This is necessary because significant shifts occurred in the governance and institutional framework during this transitional period. The seventeenth century witnessed a transfer of political authority from the Deccan Sultanates in the first half of the century to Maratha kings such as Shivaji, Sambhaji, and Rajaram in the latter half. Under the banner of Maratha Swaraj, a well-organized judicial system was developed, which brought about changes in the existing legal structure of the State. The judicial system experienced a combination of transformation and continuity as the seat of power shifted over time. Furthermore, with the ascension of the Peshwa as the de-facto ruler in 1750, the judicial system underwent further alterations. Established judicial bodies responsible for administering justice were disregarded, and new institutions were established to fulfil this role. Subsequently, when power transitioned from the Peshwa to the British in 1818, the judicial system underwent yet another series of changes.

Examining these transformations within the judicial system is crucial as it affected individuals, society, and the broader Maratha nation. The judicial system was intricately linked with the political, economic, religious, and social aspects of the Maratha society.

## Administrative Machinery during Shivaji, Shambhaji and Rajaram until 1708

There were two types of administrative institutions –

- The Central Judicial Machinery, and
- Local Judicial Machinery

## The Central Administrative Mechanism

The central administrative mechanism, known as the Rajmandal, replaced the Rakhtakhana, which was the prevailing central judicial machinery during the rule of the Sultans. Shivaji, upon attaining independence, instituted the Rajmandal and appointed individuals who had previously been members of the *Rakhtakhana*. Thus, the Rajmandal can be regarded as a replication of the Rakhtakhana. Acting as the court of

the Maratha Chatrapati, the Rajmandal was led by the Chatrapati himself and his eight ministers. During the reign of Rajaram, the position of *'Pratinidhi'* (viceroy) was incorporated into the Rajmandal. The Rajmandal included a body of secretaries who served as both the private secretaries of the Chatrapati and attended *'Majlis'* (suit-related meetings) along with other members of the Rajmandal, responsible for handling significant cases. Each department of the Rajmandal had subordinate officials and servants assigned to it. The Chatrapati employed learned individuals known as *'Sabhasad'* to act as interrogators of cases and possess traditional knowledge of laws. The Sabhasads held a crucial position within the Rajmandal.

The Rajmandal functioned as both a council of administrators, providing advice to the Chatrapati and monitoring his powers, as well as a court of law, known as the Rajmudra or Rajsabha, which served as a permanent body for the judicial assembly (Huzur Hazir Majlis). The Rajsabha was convened exclusively to handle essential cases, and its members also presided over fiscal and judicial suits at the district level within their respective regions.[1]

**The Local Administrative Mechanism**

Shivaji implemented a division among his ministers, known as Sarsubhas, encompassing two distinct categories: the "compact division" and the "scattered districts." The compact division consisted of three sections supervised by the Peshwa, the Sachiv, and the Mantri. Conversely, the scattered districts comprised districts that were grouped into separate Subhas and periodically assigned to Subhedars.

Assisting the ministers (governors), Sarsubhedars were assigned provinces and operated from the "Prant Rajmandal" or provincial officials' office. Supporting the Sarsubhas, the Karkun office played a vital role.

Each subha had its own office, referred to as Diwan-i-Subha. A chief officer known as the Subhedar headed each Subha, while the Majumdar or Karkun provided assistance to Subhedar. Additionally, every subha had a Gota and Subha Majlis, which served as the judicial body and resembled the Pargana Gota of the earlier Deccan Sultanate. The three institutions, namely the Diwan Thana, Gota of the Tarf, and the Thana Majlis in Tarf, were responsible for maintaining local administration and facilitating legal

[1] V.T. Gune, *The Judicial System of The Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Poona, 1953, pp. 26-28.

processes. These divisions—Sarsubhas, Subhas, and Tarf—represented notable modifications of earlier local institutions from the Deccan Sultanates and were headed by the respective officials, namely Sarsubhedar, Subhedar, and Tarf officials.

In addition to these administrative divisions, the village served as the fundamental unit of judicial administration. Within the village, the Headman, and the village Gota played crucial roles in administering law and order. They enjoyed complete autonomy in managing village affairs.[2]

The administrative and judicial structure during the reigns of Shivaji and Sambhaji underwent a notable change. While the early Marathas initially imitated the offices of the Deccan Sultans, they deviated from the practice of granting land to nobles in exchange for their services. However, in subsequent years, the Maratha rulers altered Shivaji's policies and began granting land to high-ranking officials, leading to the emergence of feudalism during the reign of Shahu.

**Role of Administrative Institutions in Judicial Mechanism from 1650 to 1708**

**The Central Judicial Mechanism**

The Chatrapati, being the supreme authority, held the position of the judicial head in the Maratha state. Two special ministers were appointed to assist him in judicial matters, known as the *'Nyayadhish'* or Chief Justice and the *'Panditrav'* or minister for religious affairs. Within the *Dharamsabha* (judicial assembly or Huzur Hazir Majlis), the Chatrapati received assistance and suggestions from his ministers (Rajmudras) in every legal case. Generally, local cases were referred to the Majlis and Gotas. This system remained in place until the reign of Shahu. The offices of *Nyayadhish* and *Panditrav* held positions of great importance, being located near the Chhatrapati. The *Nyayadhish* had judicial authority over all types of cases within the Maratha domain.

The *Dharamsabha*, also known as the *Huzur Hazir Majlis*, played a significant role in administering justice. Shivaji established it after his coronation, prior to which he utilized the Majlis or Gota for handling all types of cases. With the creation of the *Dharamsabha*, the Majlis and Gota were primarily responsible for local suits, while the *Dharamsabha* dealt exclusively with suits at the Pargana level and not local matters. The resolution of any case considered the traditional customary laws of the land. The Dharamsabha was a synthesis of members from the Rajmandal, Rajmudra, and Gota. It

[2] V.T. Gune, *The Judicial System of The Marathas*, pp. 28-30.

possessed the authority to address various public disputes, including those of a religious nature, although its primary focus was on cases related to hereditary titles or watan.[3]

In summary, the Chatrapati held supreme authority and served as the judicial head of the Maratha state. The appointed special ministers, namely the Nyayadhish and Panditrav, supported him in judicial matters. The Dharamsabha, established by Shivaji, played a vital role in administering justice, while the Majlis and Gota focused on local cases. Comprising members from the Rajmandal, Rajmudra, and Gota, the Dharamsabha had jurisdiction over various public disputes, with particular attention given to cases concerning hereditary titles or watan.

**The Local Judicial Mechanism**

The Majlis held judicial authority over local suits and operated in all divisions to address cases. Its existence dates back to the time of Shivaji, as it was not present during the Deccan Sultanate era and continued functioning until the reign of Shahu. Shivaji's modifications primarily expanded the jurisdiction of the Majlis, which had previously been limited to local matters. Regarding local judicial management, state officials or heads of the three divisions (Sarsubhas, Subhas, and Tarf) acted as intermediaries between litigants and the Majlis and Gota. According to V.T. Gune, these officials performed duties similar to those carried out by the Jagirdars and their appointees in administering justice during the Sultanate period. State officials consistently referred local suits to the Majlis and Gota, acting as intermediaries between the litigants and the judicial bodies.

The Governors of the three divisions held supreme judicial authority within their assigned territories and possessed appellate powers. *Sarsubhedars* provided assistance in judicial proceedings and were provided with the *Mutalqi* seal of Raja to be used on judgment papers.

Within the Subha or Pargana Majlis, two significant judicial components existed: the Diwan or Raj Mudra. The Subhedar, responsible for both original and appellate cases, oversaw the proceedings of the Subha Majlis and received matters referred by the Sarsubhedars. During the Swaraj period, the Majlis of the Sultanate era was replaced

[3] V.T. Gune, *The Judicial System of The Marathas*, pp. 32-35; Hiroshi Fukazawa, *The Medieval Deccan Peasants, Social Systems and States, Sixteenth to Eighteenth Centuries*, Oxford University Press, Delhi, 1991, p. 104.

by the Sabhasad (Councillor), who consisted of experienced individuals. The Sabhasad also served as the chief legal authority of the Majlis, explicitly dealing with "try suits." Under the Swaraj system, the role of the Qazi's office diminished in terms of judicial significance, although it was still invoked when suits pertained to Muslims. The Qazi's seal was mandatory for documents related to local transactions and matters under Maratha Swaraj. The second component, the Subha Gota, replicated the Pargana Gota from the Sultanate era and handled all types of civil cases.

The Thana or Tarf Majlis served as the primary judicial authority, comprised of the Diwan Thana and the local Gota of Thana. Additionally, at the village level, the Village Majlis acted as the basic unit for administering justice, headed by the Patil. It was responsible for resolving disputes that arose within the village.[4]

According to S.N. Sen, Shivaji's reign lacked detailed procedural rules, codified laws, and elaborate court buildings. Civil cases were heard in the houses or offices of Patils or under the branches of sacred Fig trees, emphasizing a practical and common-sense approach to justice. Sen notes that the individuals administering justice at the local level were often amateurs, and some were even illiterate. Consequently, the judgment papers issued by local authorities were not signed by all of them but rather bore their occupation symbols on seals. In certain cases, some members signed while others used their seals. It was not a common practice for all members to sign the judgment papers. Sen argues that these judges possessed sufficient knowledge of unwritten customary laws and were assisted by the Balutedars.[5]

**Administrative Institutions under Shahu from 1708-1750**

Shahu implemented significant policy changes that altered the trajectory of the Maratha state. One notable change was the reintroduction of land grants to high-ranking officials, which contributed to the establishment of a feudal system. Shahu, along with his feudal lords, ministers, new Sardars, and other officials, formed the central government and collectively governed the local administration of their assigned regions. They appointed Subhedars and regulated the judicial mechanism within their respective jurisdictions.

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[4] V.T. Gune, *The Judicial System of The Marathas*, pp. 35-37.

[5] Surendranath Sen, *Administrative System of The Marathas*, 2nd edition, University of Calcutta, Calcutta, 1925, p. 164.

The Subhedars, operating as the ultimate judicial authorities within their assigned areas, adjudicated the majority of cases. Only the most complex or unresolved suits were referred to Shahu for his decision. Working under the Subhedars were the Sardars and members of the Rajmandal who handled cases within their designated regions. They received assistance from the Diwan's Majlis, the Gota, and the Panchayat in conducting trials and resolving suits. Until Shahu's reign, the Majlis (including the Pargana Majlis and local Majlis) dealt with both central and local suits. From 1730 onwards, the Panchayat played a crucial role in assisting the Majlis in the administration of cases. Peshwa Bajirao and his son focused more on the Panchayat than the Majlis within their assigned territories. Eventually, under Peshwa Madhavrao, the Panchayat completely replaced the Majlis.[6]

**Maratha State after Shahu's Reign**

Under Shahu's reign, the Maratha state underwent a transformation into a feudal system. Shahu proposed that the Peshwa assist the Rajmandal in administering suits. Following Shahu's death, the Peshwa assumed de-facto rulership and disregarded the authority of the Rajmandal. Consequently, the Peshwa took charge of the administration and judicial mechanism, with his sardars following his lead. After 1750, the Administrative Institutions came under the purview of the Peshwas, who supplanted the Chhatrapati's authority and became the supreme judicial authority. The Peshwa was assisted by the Diwas and the Fadnis at the central level. Justice was now administered in two ways: in districts directly controlled by the Peshwa and in districts assigned as jagirs to various Sardars.

The districts under direct Peshwa regulation were further divided into three divisions: the Sarsubhas, the Mamlatdars or Pargana, and the Mahals. The Sarsubhas held the highest authority and were responsible for handling both fiscal and judicial cases within their assigned regions. They were bestowed with the *'Mutalqi Shiqqa'* or deputy's seal, symbolizing their supreme authority, by the Peshwa. The Mamlatdars, connected to the Parganas, governed the districts that generated revenues of one lakh. They served as the judicial heads in their respective districts and were appointed by the Peshwa or his Diwan upon the recommendation of the Sarsubhas. In the Konkan region, they were referred to as Subhedars. Mamlatdars or Subhedars in the areas directly controlled by

[6] V.T. Gune, *The Judicial System of The Marathas*, pp. 38-39.

the Peshwa were expected to utilize the *Mutalqi Shiqqa*. The regions that yielded revenues below one lakh were known as Mahals and were regulated by *Kamavisdars* assigned by the Peshwa. Kamavisdars collected fines and handled general cases of lesser importance. They served as subordinates to the Mamlatdars. It is worth noting that the primary responsibility of the aforementioned officials was fiscal in nature rather than judicial. They had to operate under the supervision of other officials appointed by the Peshwa, known as *Darkadars*. Local Zamindars and Watandars assisted the Darkadars in monitoring the duties of these officials.

**Regions Administered by the Sardars of the Peshwa**

The Sardars of the Peshwa, serving as both the supreme authority in their assigned territories and the judicial heads, were entrusted with the responsibility of using the *Mutalqi* seal on judgment papers. Alongside the Peshwa's Sardars, the old Sardars and members of Rajmandal, employed by Shahu, were also authorized to use the *Mutalqi* seal. They directly answered the Peshwa for matters within their respective regions and implemented the Peshwa's judicial and administrative machinery. The *Mutalqi* seal symbolized the highest judicial authority within a specific region.[7]

**Judicial Institutions under the Peshwas from 1750-1818 A.D.**

**The Central Judicial Mechanism**

With the Peshwa assuming supreme authority, modifications were made to the existing judicial mechanism. The *Nyayadhish* and *Panditrav*, who previously served as the central judicial heads, lost their jurisdiction over ecclesiastical, civil, and criminal cases. The *Dharamsabha*, Rajmandal, and Rajmudra also suffered neglect, resulting in an impact on the Central Judicial System. In some regions, military chiefs, and members of Rajmandal attempted to maintain a significant judicial mechanism within their assigned areas. The first three Peshwas exercised their judicial power through the Majlis and relied on the assistance of the Gota to examine suits. Following Shahu's demise, the Peshwas primarily utilized the Panchayat for judiciary matters, gradually replacing the Majlis and Gota. The Panchayat became the central institution for the examination of all suits. In cases of utmost importance, the presence of the Peshwa was expected. In

[7] V.T. Gune, *The Judicial System of The Marathas*, pp. 41-43; T.T. Mahajan, *Maratha Administration in the 18th Century*, Commonwealth Publishers, Delhi, 1990, p. 154.

instances where he was unable to attend, his Diwan and Fadnis fulfilled his absence and conducted investigations through the Panchayat.

The Peshwa appointed a Chief Justice to handle spiritual and proverbial matters. On Peshwa's orders, the Chief Justice presided over civil, criminal, and social suits. From 1754 to 1789, Ramashashtri Vishvanath Prabhune served as the Chief Justice. The Sardars of the Peshwa were also directed to utilize the Panchayat to address various suits. According to James Grant Duff, when a significant jagirdar was established, a *Nyayadhish* was appointed to oversee the functioning of Panchayats. For instance, Abaji Kondadev, known as Panchayati under Pratinidhi, served as the *Nyayadhish*. Jenkins, while observing the establishment of the Raja of Nagpur, noted the absence of regularly constituted courts of justice, with the exception of one established by Mudhoji Bhonsla in the city of Nagpur.[8]

**The Local Judicial Mechanism under the Peshwa**

All local officials, including Sarsubhedars, Subhedars or Mamlatdars, Shete Mahajans, and Patils, were instructed by the government to resolve suits through Panchayats. These officials handled both original and appellate cases and were authorized to use the *Mutalqi* seal on judgment papers. In cases where one party was dissatisfied with the decision of the local authority or Panchayat, they had the right to appeal to a higher judicial authority or the central court of the Peshwa. As noted by Grant Duff, these officials made decisions in petty cases with the consent of the parties involved. Panchayats were convened for every suit, as no decision could be made without the explicit permission of the Panchayat. In regions located away from the core and under autonomous chiefs like Nagpur, the judiciary was managed by *Kamavisdars*. The *Kamavisdars* received assistance from the Fadnavis and Patils in judicial matters, handling cases themselves while occasionally referring cases to the Panchayat. Jagirdars, in their respective jagirs, referred significant suits to the Poona court.[9]

This suggests that justice at the grassroots level was dispensed by villagers who lacked formal legal expertise. Although the Panchayat was established during Shahu's reign, it gained greater influence under the Peshwas. Panchayat members were chosen by the parties involved in the suit, meaning that the Panchas belonged to the same caste, trade,

[8] V.T. Gune, *The Judicial System of The Marathas*, pp. 45-47.

[9] Ibid., p. 48.

position, or local community as the parties. Thus, the Panchayat was not composed of government officials but rather individuals from the local community. The parties themselves suggested the members of the Panchayat to resolve the case. The number of Panchas ranged from three to fifteen, but it could exceed fifteen depending on the nature of the suit. The exact number was not fixed and varied accordingly. When parties were unable to propose suitable Panchas, a government official called Karkun or superintendent would select individuals to serve as Panchas while considering the consent of the parties. The judgment paper of the Panchayat was referred to as the *'Nivadpatra*,' which required the State's attestation as it was an official government document. Consequently, the Panchas served as jurors rather than final decision-makers. They analyzed arguments and made decisions that were then approved by the State through the sealing of the *Nivadpatra*. The State had the authority to question the suggestions made by the Panchas regarding judgments.

During Shahu's time, the Sabha Naik or President of the Majlis and the *Maha Prashnika* or chief interrogator, played prominent roles in examining cases. However, under the Peshwa's rule, their significance diminished as the Panchayat assumed a more organized role in administering justice. The Panchayat comprised respected villagers who lacked definitive knowledge of the Shastras and legal principles outlined by Hindu lawgivers such as *Yajnavalkya* and Manu.[10] This suggests that justice at the grassroots level was dispensed by villagers who lacked formal legal expertise. Although the Panchayat was established during Shahu's reign, it gained greater influence under the Peshwas. Panchayat members were chosen by the parties involved in the suit, meaning that the Panchas belonged to the same caste, trade, position, or local community as the parties. Thus, the Panchayat was not composed of government officials but rather individuals from the local community. The parties themselves suggested the members of the Panchayat to resolve the case. The number of Panchas ranged from three to fifteen, but it could exceed fifteen depending on the nature of the suit. The exact number was not fixed and varied accordingly. When parties were unable to propose suitable Panchas, a government official called Karkun or superintendent would select individuals to serve as Panchas while considering the consent of the parties. The judgment paper of the Panchayat was referred to as the *'Nivadpatra*,' which required

[10] Sen, *Administrative System of The Marathas*, p. 165.

the State's attestation as it was an official government document. Consequently, the Panchas served as jurors rather than final decision-makers. They analyzed arguments and made decisions that were then approved by the State through the sealing of the *Nivadpatra*. The State had the authority to question the suggestions made by the Panchas regarding judgments.

The Panchayat possessed the jurisdiction to handle all types of disputes and cases, although suits related to Watan received particular attention. Additionally, the Panchayat resolved boundary disputes and other miscellaneous issues. It investigated cases concerning landed property, monetary disputes, deposits, marriages, partition, maintenance for women, adoption, succession, irrigation water, priestly income matters, Devicha Ghat, Mahantapana, and more. In essence, the Panchayat administered a wide range of civil suits. After 1750, the Panchayat replaced the Majlis and became the central institution for the administration of justice.[11]

In addition to the state-regulated judicial institutions, indigenous judicial bodies existed concurrently. Three types of land tenures—Watan, Miras, and Upri—formed the basis for these indigenous judicial institutions. These land systems organized villages as family units, with Mirasdars and Watandars considering themselves as "*Gharbhau*" or "*Bapbhau*" (brothers through blood relation) and "*Biradarabhao*" (brothers through caste, sub-caste, and co-partnership). Villagers belonging to the same caste, sub-caste, occupation, and trade partnership considered themselves as a family unit known as the "Gota" (family of people belonging to the same sub-caste or Gotra). The term "Gota" is derived from the Sanskrit word "Gotra," meaning sub-caste. Each caste had multiple sub-castes, and individuals belonging to the same sub-caste were members of the "*Biradari*" institution. Thus, every caste had several *Biradaries* corresponding to its various sub-castes. The Gota system was founded on social relations and dealt with caste-based disputes within villages. Additionally, grants issued by the government required approval from the Gota. Therefore, the Gota acted as a local indigenous judicial body.

**Indigenous Judicial Institutions at Local Level**

There were three hierarchical indigenous judicial bodies,

- The *Gotasabha*,

[11] Gune, *The Judicial System of The Marathas*, pp. 49-50.

- The *Brahmsabha*, and
- The *Jatisabha*

**The Gotasabha**

The Gotasabha was organized based on various local administrative units, namely Pargana Gotasabha, Tarf, Kasba or Petha Gotasabha, and Village Gotasabha. The Pargana or Subha Gotasabha, headed by the Deshmukh and Deshpande, played a significant role in the fiscal, judicial, and law enforcement aspects of the Pargana. These officials represented the Rayats in their respective regions and had the authority to handle both original and appellate cases under the supervision of the Diwan. The Tarf Gotasabha and Kasba Gotasabha, known as the Munjeri and Mohotarf, respectively, had their own respective Gotasabha. The Munjeri comprised a group of villagers, while the Mohotarf focused on the marketplace. Members of both groups were included in these Gotasabhas. Typically, the marketplace members were artisans, such as Sonar (Goldsmith), Shimpi, Mali, Teli, Badhayi (Carpenter), Lohar (Blacksmith), Jyotish (Astrologer), Dhobi (Washerman), Nhavi (Barber), Kumbhar (Potter), Chambhar (Leatherworker), and others known as Khooms. The head of the Tarf or Kasba Gotasabha was the Shete Mahajan, who resolved commercial matters with the assistance of the Khooms. The Khooms played a vital role in the functioning of the marketplace, similar to the Balutedars in the villages. The Tarf Gotasabha had the jurisdiction to handle all cases within the Tarf and Kasba. In instances where disputes could not be resolved by the Tarf or Kasba Gotasabha, they were referred to as the Pargana Gotasabha by the Shete Mahajans. Every village had a council known as the Village Gotasabha, which was headed by the Patil. In addition to the Patil, the Gotasabha included members such as Watandars (Kulkarni, Chaugule, and Balutedar), Mirasdars, and, according to V.T. Gune, Upris were also part of the Village Gota.[12] The Majlis served as a gathering for judicial hearings and interrogations, a practice that continued until 1750.

**Judicial Power of the Gotasabha**

The social status and authority of Mirasdars and Watandars were based on their tenures and privileges. They possessed their own seals bearing the symbol of their occupation, which they used as their signatures and contributions in settling disputes and making

[12] Gune, *The Judicial System of The Marathas*, pp. 51-59.

final decisions. Between the time of the Sultanate and Shahu's reign, the Gotas derived their judicial powers from the State. Initially, complaints were lodged with the Havaldar, who then summoned the Gotasabha, with the Deshmukh ordering the Patil to handle the matter. However, after several Majlis sessions, it became necessary to conduct a Majlis with Diwan to reach a final decision. The village, as the basic unit of the State's rule, made the Village Gotasabha the fundamental unit of the judicial mechanism. The members of the Gotasabha possessed knowledge of unwritten customary laws. Elphinstone states that during the Peshwa's rule, when only the Panchayat contributed to administering justice instead of the Majlis, every individual was familiar with Hindu laws. This indicates a high level of awareness regarding Hindu laws within society. The Gotasabha addressed issues related to Watan or hereditary titles, landed property, movable property (gifts of funeral rites), money disputes, boundary disputes, and other miscellaneous disputes such as purification, marriage, crime, and partition. On occasions, the Gotasabha sought advice from the Brahmasabha, a group of learned Brahmins, in order to reach a final decision.[13] In certain instances, individuals directly lodged complaints with the supreme judicial authority, the Peshwa. However, it was more common for such cases to be referred to the respective Gotasabha of the regions. For example, a dispute arose among four brothers regarding Watan rights, and they directly approached the Peshwa's court. The Peshwa, in turn, instructed the Gotasabha of the respective regions to handle and resolve the matter. The plaintiffs claimed that they possessed Watan rights in Jejuri village, but due to the death of their brother, they, and the wife of the deceased brother, who had no sons, had left the village. Subsequently, Santaji claimed to be the son of the deceased brother's wife and demanded a share of the Watan rights. Upon filing the complaint, the plaintiffs were informed that they would have to accept whatever decision the Gotasabha would reach. It was ultimately the consent of the plaintiff whether they wished to have their dispute settled or not. The Gotasabha, organized by officials such as Amin, Kamavisdar, Patil, and Kulkarni, conducted hearings with the participation of three witnesses. The Gotasabha also handled divorce cases, as exemplified by the case of Naikbai Jagthapin, the wife of Ranoji Jagtap, who sought a divorce. She approached both the Diwan and the village Gotasabha to dissolve the marriage. The final decision in such cases was

[13] Gune, *The Judicial System of The Marathas*, pp. 61-65.

made at the temple.[14] This illustrates that the separation between spouses carried not only individual implications but also legal and social consequences, warranting proper legal and judicial proceedings. It also signifies that maintaining a lifelong marriage was not obligatory, as provisions for separation were available. Hence, marriage can be regarded as a legal institution, given that the process of separation had formal procedures. Furthermore, the case highlights that the declarations of final decisions by the Gotasabha took place at sacred locations such as temples. The number of members in the Gotasabha varied depending on the nature of the case.

Typically, the village Gotasabha convened at sacred sites like temples or the banks of rivers.[15] In some instances, the Gotasabha was responsible for overseeing cases related to purification. A notable example is the case of Santaji Mofe, who faced excommunication and was consequently ostracized by members of his community, resulting in the discontinuation of shared meals with him. As a means of seeking reconciliation, Santaji had to undergo certain penance rituals. Subsequently, the Gotasabha declared him purified, and this declaration was attended by prominent Watandars, as Santaji belonged to the same social class.[16]

**The Brahmasabha**

The Brahmasabha served as a prestigious assembly comprised of learned Brahmins, including individuals knowledgeable in Vedic texts, Pandits, experts in interpretation, astrologers, and those well-versed in Puranic texts. The meetings of the Brahmasabha were typically conducted at sacred locations such as Nasik, Paithan, Punatamba, Karhad, Kolhapur, Mahabaleshwar, Wai, and Pandharpur. The primary responsibility of the Brahmasabha was to address cases pertaining to social and religious transgressions, offering guidance on matters referred to them by the Majlis (Gota) and government officials. The assembly held jurisdiction over personal and canonical law cases, often incorporating Sanskrit quotations and utilizing Sanskrit terminology in their papers. Quotations from Sanskrit legal texts were invoked by the Brahmasabha in their decisions. Leading the Brahmasabha was the Dharmadhikari, who oversaw cases related to “Achara Vyahara” (Hindu law) and “Prayaschitta” (religious expiation). As

[14] Mahajan, *Maratha Administration in the 18th Century*, pp. 154-155.

[15] Ibid., p. 156.

[16] Ibid., p. 157.

the judicial assembly of and for the Brahmin community, the Brahmasabha examined all matters concerning Brahmins.[17]

The Brahmasabha also served as an authoritative body for interpreting contentious points within the Dharmashastras and Hindu laws. In cases of uncertainty, the Brahmasabha was often consulted to provide opinions. To illustrate their functions, it is pertinent to discuss a few cases that came before the Brahmasabha. One such case involved a dispute between the Mang and Mahar communities regarding their respective rights and privileges during holy festivals and the "Pola" festival. The conflict centred around the distribution of income from village lands. The Brahmasabha resolved the matter by delineating the rights and privileges of both communities. For instance, the custody of bullocks during the Pongal festival was assigned to the Mahar community, while offerings of fallen or deceased animals on village lands became the responsibility of the Mahar. The right to partake in the buffalo sacrifice on the Holi festival day was granted to the Mahar. Similarly, offerings of food to the village deity or bullocks during the Pongal festival were designated for the Mahar community, while the Mang community received offerings of Satka. The Mang community also enjoyed the right to participate in ritualistic begging during the Navaratra and Dasara festivals.[18]

In 1757, a dispute arose between the Chitpawan Brahmin community and the Krimavant Brahmin community. Pandurang Joshi organized a sacrifice and dinner event, which was attended by Chitpawan Brahmins, but a member of the Krimavant community was denied participation. The matter was referred to the Brahmasabha, which decreed that the Krimavants were a sub-caste of Brahmins known as Tulu Brahmins. The Brahmasabha issued a letter as evidence, yet the Chitpawan community refused to accept the Krimavants as Brahmins. In response, the Chitpawans protested by fasting for two days at the Ganpati temple. However, the Peshwa acknowledged the Brahmasabha's letter and recognized the Krimavants as Brahmins, thus upholding the decrees of the Brahmasabha.[19]

There was an instance in Paithan when the entire Brahmin community was deemed guilty by the Brahmasabha for having dined with a Brahmin who had converted to

[17] Gune, *The Judicial System of The Marathas*, pp. 65-66.

[18] Ibid., pp. 66-67.

[19] Ibid., pp. 66-67.

Islam. As a result, the entire community was directed by the Brahmasabha to undertake penance as a form of expiation. However, a person named Sham Charya refused to adhere to the decree of the Brahmasabha, thereby showing disrespect to the assembly. Upon being informed of the matter, Peshwa took punitive action against him. As a consequence of his transgressions, Sham Charya faced the seizure of his inam land as a penalty administered by the Peshwa.[20]

**The Jatisabha**

The Jatisabha, or caste assembly, had a specific jurisdiction limited to cases involving the violation of caste regulations. Each caste had its own Jatisabha, presided over by the headman of the caste. When disputes arose within a caste, the respective caste head would adjudicate the matter. In cases involving different castes, the heads of the respective castes would preside jointly to resolve the dispute. It is important to note that the Jatisabha focused solely on caste-related offences, distinguishing it from the broader jurisdiction of the village, Gotasabha, which handled a wider range of disputes within the village. In instances where the Jatisabha was unable to resolve a caste dispute, it would refer the matter to the Dharamsabha, a higher judicial authority composed of government officials. While the Gotasabha dealt with civil cases, the Brahmasabha and Jatisabha specifically addressed religious and social matters, as well as personal and canon law cases.[21] The members of the Jatisabha were referred to as Daiva, and they also handled cases related to women, notably those involving adultery.[22]

Both the Brahmasabha and Jatisabha played a crucial role in administering religious and social justice by imposing Deva Danda (spiritual or religious punishment) and Jati Danda (caste-based punishment). From the time of the Maratha Chhatrapatis until 1750, and later under the Peshwas until 1818, as well as during the tenure of the Chief Justices, these assemblies assisted in resolving issues pertaining to religious and social matters.

**Classification of Judicial Laws under the Maratha State**

Maratha rulers adopted and modified the ancient Hindu laws as the basis for their legal system. Watan laws, which pertained to land disputes, became an important source of law. Additionally, earlier judgments, customary practices, and sacred law books

[20] Mahajan, *Maratha Administration in the 18th Century*, pp. 158-160.

[21] Gune, *The Judicial System of The Marathas*, pp. 66-67.

[22] Mahajan, *Maratha Administration in the 18th Century*, p. 161.

provided the foundation for legal decisions. In matters of personal significance such as partition, marriage, and inheritance, Sanskrit law books were consulted, often requiring the expertise of learned Brahmins. Manusmriti, Hemadri, and Madhav were commonly referenced in matters of remorse. For caste disputes, discussions were held with Yati Nirnaya, an authority on caste matters. The State generally refrained from intervening in caste-related cases. The Majlis possessed knowledge of Hindu laws, while unwritten customary laws also played a significant role. Shivaji incorporated Hindu laws and governance practices into the judicial system that suited the context of that era.

S. N. Sen notes that the Panchas (village elders) and local authorities who dispensed justice were often illiterate villagers with limited knowledge of shastras (sacred texts) and Vedas. Nonetheless, they commanded respect in their communities and administered justice based on local customs and traditions. In cases where confusion arose, the Brahmasabha was consulted for guidance. On the other hand, Wagle[23] suggests that the implementation of traditional Hindu law did not always adhere strictly to shastric norms, contrary to the British perception of a systematic application of such laws. Dispute resolution in pre-British India was often characterized by flexibility, with local practices and the principle of the ability to pay to influence the determination of sanctions. Uma Chakravarti, however, argues that the Peshwa's increased reliance on Brahmanical interpretations contributed to the expansion of Brahmanical gender ideology. Her research suggests that sentences against Brahmin women were often more severe compared to those imposed on lower-caste women. Nevertheless, the extent to which Brahmanical ideology was reinforced or flexibility was maintained remains unclear.

At the apex of the legal system was Dharma, or law, which was divided into three categories: Strauta (based on the Vedas), Smarta (based on the Smritis), and Sistacara (behaviour recognized by society).

Smarta law encompassed Varna-ashrama-Jati Dharma (regarding classes, stages of life, and caste), Guna Dharma (conferred through special rites), and Naimittika Dharma (such as expiation rituals). Guna Dharma had three modes: Dharma-palana (protecting the religion), Rastra-palana (protecting the dominion), and Praja-palana (protecting the

[23] K. N. Wagle, 'Women in the Kotwal's papers, 1779 – 1791', in ed., A. Feldhaus, *Images of Women in Western Maharashtrian Society*, State University of New York Press, New York, 1998, p. 52.

subjects). Praja-palana consisted of Vyavahara (litigation), which further comprised Vyavahara Matrka (judicial procedure) and Vyavahara Padani (substantive law). Vyavahara Padani included Artha-Mula (civil law) and Danda Mula (criminal law). Artha-Mula encompassed four categories: Watan disputes, Stripumsamyoga (family law disputes), Rnadana (money disputes), and Simavivada (boundary disputes). Danda Mula comprised Diwan-Danda (state punishment), Deva-Danda (religious or spiritual punishment), and Jati-Danda (caste punishment).[24]

Certain significant civil laws were codified by the State in the eighteenth century. For example, Yajurvedi Brahmins from North Konkan were required to perform the Vivaha Moma marriage sacrifice to validate their marriages. In 1744-1745, Peshwa Balajirav prohibited marriage between a daughter and her father's sister's son, a tradition prevalent among Yajurvedi Brahmins. According to this prohibition, a son who did not belong to the same caste as his parents had no right to inherit their property. In cases where a widow had no children, she had the right to adopt a male child from her own sub-caste or family, although confirmation from the village assembly (Gota) and the government (Sanad) was necessary. The transfer of property rights to a male child from his maternal grandfather required a Baksispatra or a specific document. Polygamy was officially recognized, but husbands were obliged to support all their wives, and if a husband failed to do so, the wives had the right to take legal action against him. Women enjoyed full rights over their own property, and in the event of widowhood, the father-in-law was responsible for maintaining the daughter-in-law. It was established that if a widow passed away, her property would be inherited by her husband's sister's son, as he was considered the nearest relative. Adoption of a daughter's son or a son from a different family was prohibited (1767 A.D.). In cases where a person died without an heir, the State had the right to claim their property.[25]

**The Procedure of the Judicial Mechanism**

In examining the justice procedures of the Maratha rulers, it is essential to differentiate between the period before the ascendance of the Peshwas and the subsequent era when the Peshwas assumed de facto rule. Prior to 1750, during the reign of the Chhatrapatis, the Majlis held significant authority in the adjudication of judicial cases. However, as

[24] Gune, *The Judicial System of The Marathas*, pp. 68-70.

[25] *Ibid.*, pp. 71-72.

the Peshwas consolidated their power, they placed greater emphasis on the efficacy of the Panchayats as a preferred institution for dispensing justice.

**Trial by the Majlis**

The complainant enjoyed the right to choose the location for the trial of their suit. Typically, the Majlis was conducted in places associated with religious significance, such as around a sacred Fig tree, at the house of the Deshmukh (local headman), or at a temple. Each sacred place had a designated "Dharmachauthara" or open area for conducting the Majlis. These gatherings usually took place in the months of June and February. The Majlis consisted of expert interrogators referred to as "Pariksaka," "Prasnika," or "Mahaprasnika Mayevet." The summoned individuals were required to pay a fine to the police for their transportation to the Majlis. Generally, it took three to four months to resolve cases, and delays in reaching a final decision were not permitted. If the defendant denied the charges, the claimant was expected to present witnesses along with detailed information and evidence. The ultimate decision of the Majlis was known as the "Thalpatra," which needed to be attested and approved by the State. Once approved, a written document called the "Mahzar" was issued as proof of the final judgment in favour of the winning party. The Mahzar was prepared by scribes known as Deshpande for the Majlis at the Pargana level and Kulkarni for the Majlis at the Kasba or village level in their respective regions. In certain cases, the Majlis of one place would refer the matter to the Majlis of another place due to the need for an impartial investigation.[26]

In the Maratha state, there was no fixed court fee. The Diwan, a state official, had the authority to collect money from both parties as "Harki" or "Gunehgari." The losing party was obligated to pay a fine, known as Gunehgari, while the successful party voluntarily paid the State and public officials, referred to as "Khusi Sherni" or Harki. The winning party would often offer dinner to the members of the Gota in appreciation for granting the Mahzar.[27] Typically, the winning party paid a portion of the property or assets in dispute, which could be around one-fourth or one-fifth of the total value.[28]

[26] Gune, *The Judicial System of The Marathas*, pp. 73-81.

[27] Ibid., pp. 81-82.

[28] Mahajan, *Maratha Administration in the 18th Century*, p. 166.

However, the exact amount payable to the State was not always fixed and varied depending on the financial condition of the winning party.[29]

Serious cases were handed over to the custody of the State. On several occasions, the government reopened cases and subjected them to re-examination, leading to potential revisions in the earlier decisions. Failure by the defendant to attend court hearings was not tolerated and could result in their declaration as the losing party.[30]

**Trial by the Panchayat**

After 1750, the judicial system primarily relied on the Panchayat to resolve disputes. Parties involved in a case had the right to select the location for the trial. Kamavisdars and Subhedars played significant roles in their assigned regions, and Mamlatdars represented the State before the Panchayat and enforced its decisions. Panchayats were usually organized by local officials such as the Patil and Shete Mahajan in villages and Kasbahs, and their proceedings were confirmed by the Mamlatdar. The Peshwa, through the employment of Mamlatdars, maintained oversight of the Panchayat's activities. It was imperative that Panchayats reported their proceedings to state officials, such as the Patil, Shete Mahajan, and Mamlatdar. If Panchayats failed to involve these officials, their decisions were deemed invalid, and the case would be re-examined either by the Mamlatdar or by a new Panchayat composed of members selected by the State. In situations where partiality was suspected, the State would intervene and establish a fresh Panchayat, with members chosen from different villages. Typically, the Panchas (members of the Panchayat) hailed from the disputants' own village, which made it challenging to ensure impartiality. Elphinstone noted that "the Panchayats themselves were open to corruption and partiality." In many documents, the members of the Panchayat were regarded as the "Maaye-Baap" or parents of the parties involved in the case.

Litigants were required to present evidence, and original documents were kept in the records by the judicial body. The final decision of the Panchayat, known as the "Nivadpatra," was granted to the winning party. However, the Nivadpatra had to be approved by the State. If the State was dissatisfied with the Panchayat's decision, it would withhold approval of the Nivadpatra. This illustrates that the State held ultimate

[29] Sen, *Administrative System of The Marathas*, p. 354.

[30] Gune, *The Judicial System of The Marathas*, pp. 82-83.

authority in all regions, utilizing institutions such as the Panchayat to resolve matters. The Panchayat acted as an intermediary between the parties involved and the State. In essence, it was an institution of the State, as the validity of the Nivadpatra depended on royal sanction. The State would affix its seal on the top or backside of the Nivadpatra. The document included statements from both parties, along with pleadings, information about the supporting documents, statements from witnesses, and final comments from the Panchas. The fee for the Nivadpatra was recorded by the Fadnis, while the Majumdar provided the endorsement. The award of the Panchayat was known as the "Saramsa," which required the endorsement of the State. Thus, the State regulated the judicial mechanism at both the core and local levels through the Panchayat. Local officials and inhabitants were instructed by the public officials to execute the judgments of the Panchayat.

Direct access to the Peshwa was not permitted; only an unsatisfied party could approach the central court of the Peshwa if they were dissatisfied with the judgment of the local authority or the Panchayat. If an appeal was made to the Peshwa, the Chief Justice would be ordered to reinvestigate the case and the previous judgment. Sometimes, a fresh Panchayat would be convened for re-examination, or the Mamlatdar would examine the appealed case without assembling a new Panchayat. In fact, original or fresh cases could also be tried by the Mamlatdar without involving the Panchayat. The court fee remained similar to previous practices, but the winning party was required to pay a higher amount. Paying the court fee was a prerequisite for obtaining the *Nivadpatra*.[31]

In the medieval Maratha judicial system, parties did not hire pleaders; instead, they chose the judges themselves. The concept of hiring pleaders did not exist. This could be attributed to the understanding that only the wealthy could afford to hire a pleader, while the poor were unable to do so. As a result, the State provided law interpreters, but only in the central court of Poona. The Panchayat was unable to render a final decision in the absence of any party. If a party failed to appear, the decision was quashed upon the request of the absent party.[32]

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[31] Ibid., pp. 83-86; Fukazawa, *The Medieval Deccan*, pp. 98-99; Sen, *Administrative System of The Marathas*, pp. 351-352 and pp. 355-358.

[32] Sen, *Administrative System of The Marathas*, pp. 350-354.

The practice of administering justice through the Panchayat was also favoured by early British officials, including Elphinstone, who advocated for its continuation. During the initial period of British rule after 1818, the local population preferred seeking justice through the Panchayat rather than the established British courts. This preference stemmed from their familiarity with the Panchayat system, as individuals possessed knowledge of Hindu laws and their application in civil cases during the Peshwa rule until 1818.[33] Maratha society displayed a significant emphasis on Hindu laws, as the Panchayat system required individuals to assume the roles of judges and jurors, compelling them to become well-versed in ancient Hindu laws, particularly civil laws.[34]

The concept of administering justice through the organization of Panchayats in civil suits can be traced back to the theories of ancient lawgivers such as Narada, Brihaspati, and Shukracharya. Brihaspati, for instance, proposed that disputes among cultivators, artisans, artists, moneylenders, traders, dancers, individuals associated with religious orders, and even criminals should be resolved according to the rules of their respective professions. On the other hand, lawsuits among relatives, groups of artisans, cohabitants, and individuals duly authorized by the king should be decided by state-sanctioned assemblies, except in cases involving violent crimes.[35] Although the specific term "Panchayat" is not mentioned in the above quotation, the notion of administering justice through state-authorized assemblies composed of fellow villagers, relatives, and artisans is implicitly suggested by these ancient lawgivers. The Marathas derived the idea of administering justice through state-authorized assemblies comprising co-villagers, relatives, artisans, and others from the theories put forth by these ancient Hindu lawgivers.

The Panchayat was involved in resolving various cases, with the Panchas typically belonging to the same caste as the parties involved. For example, a dispute regarding watan (revenue rights) arose between Balaji Harikhot and Ramaji Balal Desai. The matter was brought before the Panchayat, which comprised prominent members and convened its meetings at the temple. The final decision was also announced at the

[33] Gune, *The Judicial System of The Marathas*, p. 133.

[34] Sen, *Administrative System of The Marathas*, pp. 378-379

[35] Ibid., pp. 566-568.

temple.[36] The Panchayat also handled cases related to money lending. One such instance involved a banker named Gopal Khisti, who had lent 19 thousand rupees to Banaji Siwaji. As Siwaji failed to repay the debt within the agreed time, the banker filed a complaint against him with the Peshwa. The Peshwa referred the case to the Mahal official for examination, and the Kamavisdar of the respective region subsequently referred it to the Panchayat. The Panchayat ruled in favour of Siwaji, determining that the debt did not have to be repaid to the banker. However, when the Kamavisdar did not enforce the Panchayat's decision, the banker approached the Peshwa to ensure its enforcement. The Peshwa then ordered the officials of the relevant place to recover the debt from Banaji Siwaji. This demonstrates that while the Panchayat had the authority to examine cases and make decisions, the final approval and enforcement of those decisions rested with the State. The Panchayat served as an examining body, but it lacked the power to enforce its decisions. In cases where the Panchayat failed to resolve a dispute, the government appointed a deputy to re-examine the case. If the deputy also failed to reach a resolution, the case would be referred to the Chief Justice of the Peshwa in Pune for further examination.[37]

At times, the State disregarded the final decisions of the Panchayat. For instance, a dispute arose over the Deshmukhi Watan (revenue rights) between Vishnu Gauda Desai and Shriniwas Mushtagir. A Panchayat was assembled to settle the dispute, and based on the evidence and written documents, the Panchayat made a final decision in favour of Vishnu Gauda Desai. However, Shriniwas was dissatisfied with the Panchayat's judgment and appealed to the Peshwa to conduct an ordeal to further investigate the matter. The Peshwa accepted his appeal and sent an official to oversee the ordeal. Shriniwas underwent the ordeal in front of the Panchayat, villagers, Patil, and landlords from neighbouring villages. As he failed to successfully complete the ordeal due to burnt fingers on his right hand, he lost the case once again, and the Deshmukhi Watan was transferred to Vishnu Gauda. Vishnu Gauda paid eleven thousand rupees to the State as Nazar (tribute). This case illustrates that the State did not necessarily abide by the decisions of the Panchayat. If a party was dissatisfied with the Panchayat's decision, they had the right to appeal to the Peshwa. In such cases, even if the party lost the case

[36] Gune, *The Judicial System of The Marathas*, pp. 299-300; Mahajan, *Maratha Administration in the 18th Century*, pp. 162-163.

[37] Mahajan, *Maratha Administration in the 18th Century*, pp. 163-164.

again, they could still appeal for an ordeal. Thus, the judicial mechanism exhibited considerable flexibility, providing opportunities for the parties involved..

S.N. Sen noted that civil cases were often resolved through amicable settlements. He referred to a text called 'Yadi' written by Pratap Sinha, the ruler of Satara from 1808 to 1839, which described the judicial administration during the rule of the old Maratha rulers. This text indicated that civil disputes were commonly settled through arbitration and the mediation efforts of neighbours. The 'Nyayadhish Prakaran' section of the Yadi stated, "the good old rule of this realm has been to make amicable settlement of all disputes through the proper exertion of the neighbours and to call a Panchayat only when there is no other remedy." The text emphasized the importance of encouraging parties to resolve their disputes through arbitration, a fee-free method facilitated by the participation of neighbours. Officials were instructed to persuade parties to opt for arbitration as the primary approach to dispute resolution. The role of arbitrators was appreciated, and the government did not penalize them if a subsequent appeal to the Panchayat or state judicial body was made. This indicates that the government aimed to prioritize arbitration as the initial means of settling disputes without the direct involvement of state officials. State intervention in arbitration was only initiated upon the request of a party. However, it would be incorrect to claim that the State did not play any role in promoting arbitration. In fact, it was the State that advised its officials to encourage parties to resolve their disputes through arbitration first, with the option to escalate to the State's judicial bodies, such as the Panchayat, if necessary. The State possessed the authority to disrupt arbitration proceedings but generally refrained from doing so, instead favouring its encouragement.

According to S.N. Sen, the Maratha state lacked a clear understanding of the theory of separating the executive, legislative, and judiciary departments or sectors. There was no distinct and specialized judicature for each of these functions. Instead, officials performed multiple duties and the lines between these departments were blurred. Only major towns, particularly Poona, had a well-structured and separate judicial system. In these urban centres, learned judges, well-versed in the Shastras and Laws, presided over the specialized courts. They served as Nyayadhish (judges), interrogators, law interpreters, and intellectuals. However, in the countryside or periphery, justice was administered by officials whose primary responsibilities did not include the administration of justice. These local officials, such as Patils, Mamlatdars,

Kamavisdars, Sarsubhedars, and the Sardars of the Peshwa and Raja of Satara, lacked knowledge of judicial laws encompassing the Shastras, Vedas, and Smritis. As they had other duties to attend to, they relied on the organization and decisions of the Panchayats to deal with justice matters. Their role was limited to ratifying and endorsing the decisions made by the Panchayat. Thus, Panchayats, headed by respected villagers, were encouraged, recognized, and institutionalized as a means of administering justice. However, neither the members of the Panchayat nor the local officials were specialized judges. The officials merely supervised and assisted the Panchayats rather than actively participating in their administration. This lack of specialized judges at both levels contributed to the flexible and liberal judicial mechanism prevalent in rural areas.[38] From the Peshwa, who represented the core of the State, down to the Patil, operating at the periphery, all officials were responsible for executive, legislative, and judicial functions, which they were unable to separate. This led to an inappropriate judicial system at the grassroots level. However, the State was aware of this reality, which is why the Peshwa and the central court were easily accessible to the subjects. People could approach the Peshwa and his Nyayadhish without any hindrance. It had become customary for individuals to present their unsatisfactory Watan-Patras (revenue rights documents) and Nivadpatras (judicial decisions) to the Peshwa.[39] Therefore, it is undeniable that there were flaws in the administration of justice at the local level. However, for those seeking a proper specialized judicial process, the central court of the State, consisting of knowledgeable judges, interrogators, law interpreters, and intellectuals, could be accessed. The State provided the necessary facilities based on the prevailing conditions of the time.

**Nature of Evidence during Judicial Proceedings**

In the context of evidentiary classification, there were two main categories of proof: 'Pramana' and 'Kriya.' These categories encompassed different types of evidence used in legal proceedings. Within the category of 'Kriya,' evidence could be further classified into 'Manusi Kriya' (Human evidence) and 'Daivi Kriya' (Divine proof). Focusing on 'Manusi Kriya,' this type of evidence could be categorized into three sub-categories: 'Kagadapatra' or 'Likhita' (Documents), 'Bhogavata' or 'Bhukti'

[38] Mahajan, *Maratha Administration in the 18th Century*, p. 350.

[39] Ibid., pp. 374-375.

(Possession), and 'Gohi' or 'Saksi' (Witnesses). Each of these sub-categories represented a distinct form of evidence that played a role in substantiating claims within the legal framework.

**Manusi Kriya or Human Evidence**

Within the evidentiary framework, a classification of proof existed, distinguishing between 'Kagadapatra' (documents), 'Bhogavata' (possession), and 'Gohi' or 'Saksi' (witnesses) as forms of evidence. Notably, emphasis was placed on original documents rather than copies, with sealed and well-written documents being considered reliable evidence. The discerning expertise of the Majlis members enabled them to detect any forged documents. 'Bhogavata' cantered around the validation of possession, particularly in the context of Watan possession. The validity of possession varied among individuals and was subject to the jurisdiction of the State, lacking a fixed period of validity. In the absence of documents, the testimony of witnesses, known as 'Gohi' or 'Saksi,' played a significant role. Witnesses were often individuals from the litigant's village or locality, such as Mokaddam, Patil, Kulkarni, and Balutedar.[40] On occasion, witnesses could also hail from neighbouring villages. Summonses were issued to witnesses by the court, or the police were dispatched to bring them in. Witnesses were placed under guard and required to take oaths prior to presenting their statements. These oaths, administered before a local deity, were believed to elicit truthful testimony. The nature of the oath varied according to the caste system, as outlined by Manu.

During the Peshwa period, litigants had the ability to name their witnesses, who were brought to court by Karkun, a state official. However, before appearing in court, witnesses were required to follow specific rituals. A clerk would be dispatched by the Karkun to the witnesses' village, where the prescribed rituals were performed. Once the rituals were completed, the clerk would record the witness statements in writing. The recorded information was then approved by the Mamlatdar before being presented in court. False or misleading information provided by witnesses was subject to punishment by the State.[41] Typically, individuals with knowledge of village history and traditions, such as Balutedars and other Watandars, were called upon as witnesses or

[40] Gune, *The Judicial System of The Marathas*, pp. 85-86.

[41] Ibid., 87-90.

providers of oral evidence.[42] Rituals preceding witness testimonies often involved bathing in a river and visiting a temple. For instance, in a Watan dispute between Santaji Makaji and Sayaji Hiroji, Shivaji Pukaji, witnesses were required to bathe using water from a nearby well situated close to the Ganpati temple. Subsequently, they would sit on the temple platform and provide the names of Patil's brothers to the Gotsabha.[43]

**Divine Proof or Ordeal**

In cases where evidence was lacking, witnesses were difficult to obtain, or the dispute seemed challenging to resolve, the Maratha judicial system resorted to divine proof or ordeals. Parties involved in a case had the option to choose the path of ordeal if they desired. This practice relied on the consent of the party seeking resolution. Furthermore, if the party that had been defeated in a Panchayat judgment remained dissatisfied, they could claim an ordeal. In the event of failure during the initial ordeal, the defeated party retained the right to request another ordeal. According to S.N. Sen, the Marathas had a belief in divinity and faith as a means of settling disputes, even in cases that were unrelated to their religious practices. Ordeals consisted of two main types: those involving fire as a means of proof and those involving divine intervention within a fixed period as a means of proof. Each type comprised distinct rituals to be followed.

In Agni, the different rituals were —

- Rava Divya - This ritual involved the use of a heated piece of metal.
- Agni Divya - It entailed the use of a heated ball of metal.
- Airani Divya - This ritual required heating an anvil, which was then employed in the ordeal.

Another category of ordeals, referred to as "Divine Intervention within a fixed period," encompassed the following practices –

- Kriya Divya - This ritual involved the performance of specific customary religious rites.
- Satya - It entailed the use of a sacred treasury or container during the ordeal.
- Sapath - This ritual required the taking of a solemn oath.

[42] Sen, *Administrative System of The Marathas*, p. 358, pp. 359-363.

[43] Mahajan, *Administration of the Marathas in the 18th century*, pp. 156-157.

Within the Kriya Divya ritual, three distinct sub-rituals were conducted, each serving a specific purpose, namely —

- Nadichi Kriya – It involved participants immersing themselves in a holy river.
- Vatichi Kriya - entailed the lighting of lamps as part of the ordeal
- Other Kriyas[44] - This term refers to additional rituals that were performed with specific details regarding their nature and practice, which are not provided in the given context.

Interestingly, the flexibility of the judicial procedure allowed for the plaintiff and defendant to change their initial selection of ordeal and request a different one based on their preference. A noteworthy example illustrates this point. Somaji, a man involved in a legal case, initially agreed to perform a water ordeal as ordered by the Gota. However, he changed his mind the following day and proposed an oath ordeal at a Mosque in Kasba Ranjangaon. On the third day, he once again altered his choice, retracting his request for the oath ordeal and seeking to undergo the water ordeal instead. Both parties were subsequently instructed to participate in a water ordeal by pouring water over their hands. However, Somaji refused this particular ordeal and instead requested a fire ordeal. This particular case demonstrates how the flexibility of the judicial system could be exploited at times. The intertwining of faith and the judicial system reflects the societal beliefs that influenced the Marathas' economy, politics, and judicial practices.[45]

Ordeals involving fire and heated metal were more commonly practised. A frequently employed ordeal consisted of retrieving a piece of metal from a pot filled with boiling oil. Such fire and heated metal ordeals were typically conducted in temples during auspicious moments predetermined by the government. These ordeals were witnessed by co-villagers from both parties as well as state officials. For instance, in a dispute over Patilki Watan between Shankarji Dangat and Devji, both parties were ordered by the Huzur to proceed to the Subhedar and officials of their respective districts to undergo the "Agnidivya" ordeal. The Gota of that location assembled in the temple, where they ignited a fire and heated a mixture of ghee and oil according to customary

[44] Gune, *The Judicial System of The Marathas*, pp. 90-91; Sen, *Administrative System of The Marathas*, pp. 164-165 and p. 363.

[45] Sen, *Administrative System of The Marathas*, pp. 364-365.

proportions. The participants were required to take a bath, perform other rites, and publicly retrieve two pieces of metal from the hot liquid. Afterwards, their hands were bandaged and sealed. The following day, both parties were brought to the Peshwa by the Karkun of their respective districts, and the bandages were removed and the seals broken.[46] This case was presented as an illustrative example to gain insights into the procedural aspects of ordeals, particularly the fire and heated metal ordeal. Another instance that highlights the utilization of ordeals is a Watan dispute concerning sixty-three villages between Kusaji Anant Prabhune and Apaji Khando, Jano Mahadev Joshi and Apaji Shamaji Akalajkar. In this case, the Gotasabha, a community assembly, resolved the dispute through the implementation of an ordeal involving a heated piece of metal and the extraction of a ring or iron ball from boiling oil and ghee. The plaintiff's brother, Shivaji Khando, voluntarily subjected himself to the ordeal, resulting in his hands being bandaged. After a period of three days, the bandages were removed in the presence of the Pratinidhi, a representative of the court. It was observed that Shivaji Khando's small finger had suffered a burn, leading to the declaration of the plaintiff, the brother of Shivaji Khando, as the losing party. Similarly, other parties involved in the ordeal also failed to pass the trial, resulting in the forfeiture of the Watan from their possession.[47] This particular ordeal brings to light the practice wherein family members of the plaintiff were allowed to undertake the ordeal on behalf of the concerned individual.

The ordeal was predominantly conducted in cases of boundary disputes that arose between villages or within the village community. The resolution of such disputes relied heavily on the implementation of ordeals, wherein the involvement of cows played a significant role in demarcating the boundaries.[48] During such ordeals, the presence of government officials, particularly the Karkun, was imperative. The responsibility of determining boundaries rested with Patils in cases of disputes between two villages and Mahars, the Village Watchmen, in disputes among villagers within the same village. These officials played an active role in the ordeal process. The Majlis, comprising both government officials and fellow villagers, would conduct the ordeal in the presence of the local deity. To illustrate, an instance of a boundary dispute between the villages of

[46] Sen, *Administrative System of The Marathas*, pp. 366-367.

[47] Mahajan, *Maratha Administration in the 18th Century*, pp. 155-156.

[48] Sen, *Administrative System of The Marathas*, p. 368.

Borgaon and Urun in the year 1771-72 is noteworthy. The Patel of Urun village performed a Kriya, wherein he circumambulated the disputed boundary with a cowhide placed on his head and carried a pot of water from the river Krishna in his right hand. The opposing party raised objections to the ordeal conducted by the Patil of Urun village, claiming that the pot of water appeared too heavy for him and that the sighting of a snake along the way was an ill omen. Consequently, the villagers of Borgaon agreed to undergo a fire ordeal at Pashan, near Poona, before the deity Somesvara in order to reach a final decision. During this process, the hands of the Patil from Borgaon were burned, resulting in his loss of the suit. The villagers of Urun, in whose favour the suit was decided, were imposed with a government Najar or a monetary penalty of 10,500 rupees. This method of settling boundary disputes through ordeal can be traced back to the principles outlined in Hindu Law Books.[49] The utilization of ordeals as a means of resolving disputes was an ancient practice that was adopted, recognized, and sanctioned by the Marathas. The utilization of ordeals as a means of resolving disputes was an ancient practice that was adopted, recognized, and sanctioned by the Marathas.

The utilization of ordeals to address difficult or ambiguous suits, particularly those lacking sufficient evidence, was also elucidated by ancient Hindu Lawgivers. For example, Manu described trial by ordeal as follows: "The judge may cause the party to carry fire or to dive underwater, or severally to touch the heads of his wives and children. He whom the blazing fire burns not, whom the water forces not to come quickly up, who meets with no speedy misfortune, must be held innocent on the strength of his oath." Apastamba suggested that in cases of doubt, decisions should be rendered after ascertaining the truth through inference, ordeals, and similar methods. Narada distinguished between human proof, consisting of documentary and oral evidence, and divine proof, which encompassed ordeals by balance and other divine tests. Divine tests were applicable in cases where transactions occurred in secluded forests, at night, or in the interior of a house, as well as in instances of violence or denial of a deposit. Sukracharya, in his writings, prescribed various methods for the resolution of cases through divya (divine) means, including fire, poison, vessel, water, virtue, vice, rice, and oaths.[50] Many other ancient Hindu lawgivers wrote about the methods of trial by ordeal. Therefore, the practice of resolving suits through ordeals was not introduced by

[49] Gune, *The Judicial System of The Marathas*, pp. 100-101.

[50] Sen, *Administrative System of The Marathas*, pp. 572-573, pp. 574-579.

the Marathas; rather, they adopted and implemented it in their judicial proceedings based on the principles established by ancient Hindu lawgivers.

When disputes between debtors and creditors could not be resolved through mutual agreement, they were referred to a public officer who would settle the dispute, with the condition that the State would receive a share, typically the fourth or fifth, as compensation. In certain cases, the Panchayat was also summoned to settle such disputes. It remains unclear whether debtors who had not fulfilled their obligations were subjected to civil imprisonment.[51]

**Judicial Mechanism in Criminal Cases**

In matters of criminal cases, the Hindu law books and Smritis were not consulted extensively, as they were primarily concerned with moral and religious issues rather than criminal suits. Instead, for criminal matters, a separate court of inquiry was established, composed of government-appointed members who were distinct from the Panchayat.[52] The responsibility for administering justice in both criminal and civil cases rested with local authorities such as the Patil in the village, Mamlatdar in the districts, Sarsubhedars in the Parganas, and the central authority represented by the Nyayadhish in the central court of the Peshwa. Access to the central court of the Peshwa was limited, as only dissatisfied parties who were not content with the decisions of the local authorities were permitted to approach it directly. Although Panchayats were more commonly convened in civil cases, there were instances where they were also organized to investigate murder cases. One such case occurred in 1760-61, involving the killings of three individuals, including Yeshvant Rao, in a dispute related to land revenue. Yeshwant Rao's son lodged a complaint against the perpetrators, prompting the Peshwa to summon the Patil, Kulkarni, and Rayats of the respective villages for questioning and inquiry. The Panchayat conducted an investigation and determined that Sultanji and Baji were responsible for the murders. Additionally, the Panchayat ordered the guilty parties to compensate the victims' family members using their Inam lands, which

[51] Gune, *The Judicial System of The Marathas*, pp. 99-100; Sen, *Administrative System of The Marathas*, p. 371.

[52] Ibid., pp. 105-106.

carried hereditary rights.[53] This particular case highlights the provision for providing compensation in such criminal proceedings.

**Institutions Involved in Administering Punishments (*Danda*) in Criminal Suits**

**Diwan Danda or Raj Danda (Official Punishment)**

During the reign of Shivaji, the severing of limbs was a prevalent form of punishment for crimes committed against the State. However, following Shivaji's era, the Maratha state underwent a division into numerous principalities. Each principality implemented its own distinct system of punishment, which can be categorized as follows:

- Criminal Justice under Peshwa
- Criminal Justice under Sardars of Peshwa
- Criminal Justice under the semi-independent Sardars like the Satara Raja and Raja of Nagpur.

**Criminal Justice under Peshwas**

The administration of criminal justice under the Peshwas encompassed various authorities responsible for overseeing this process. These authorities included the Peshwa himself, along with the Chief Justice, who held significant roles in the judicial system. Prior to 1750, the Peshwa held supreme authority within their designated region and was granted the Mutalqi Shiqqa by the Chhatrapati, thereby signifying their high-ranking position. In the absence of the Peshwa, their deputy assumed control of the judicial matters. Additionally, the Chief Justice, as another prominent figure, presided over both criminal and civil cases.

At the local level, the administration of criminal justice involved a hierarchy of officials. This included the Sarsubhedars, Subhedars or Mamlatdars, Kamavisdars, and Patils. Among them, only those who possessed the Mutalqi Seal of the Peshwa were authorized to impose punishments of life imprisonment or the death penalty. These individuals, given their elevated status and official seal, held the authority to make grave decisions regarding the fate of individuals convicted of serious crimes.[54]

While the sardars of Peshwas possessed the authority to investigate various suits, the power to pronounce capital punishments rested with the military commanders. Only the

[53] Sen, *Administrative System of The Marathas*, pp. 379-381.

[54] Gune, *The Judicial System of The Marathas*, pp. 102-104.

Sardars who held the Mutalqi seal had the jurisdiction to render judgments pertaining to life and death. Conversely, the Zamindars, Chaudharis, and Mehtars lacked the authority to prosecute and penalize offenders.

Within the domain of semi-independent Sardars, criminal cases were examined by the Pratinidhi and other members of Rajmandal operating within their respective regions. Similarly, under the rule of the Raja of Nagpur, the settlement of criminal cases was entrusted to the Kamavisdar. As for the Patils or Village headmen, their power was limited to imposing minor fines and penalties.

**Deva Danda or Brahma Danda and Mehta's Jati Danda or Gota Danda**

The punishments imposed on individuals often entailed subsequent rituals to be performed by the guilty parties, aimed at purging themselves of the sins associated with their crimes and reintegrating into their respective castes to perform caste-specific rites. Each caste had its own set of rituals corresponding to its social position within the hierarchical structure. Deviation from these rituals resulted in social ostracization, with the possibility of readmission through the concept of expiation or Prayaschitta, which involved offering dinners to reclaim one's former social status. This practice of Prayaschitta was typically undertaken by the guilty party after undergoing royal punishments determined by a court or judicial body, including the Panchayat.

The administration of Deva Danda and Jati Danda involved specific authorities. The highest authority in this regard was the State, which held the position of Royal Authority. Following the State, the Brahmasabha, representing the intellectual elite, played a significant role. Finally, the Jati Sabha, representing the popular authority, also had jurisdiction in these matters.[55] In matters pertaining to social and religious justice, particularly those concerning caste-related issues, the State received support from these bodies. The Brahmasabha, in particular, played a role in prescribing expiation for offences against religion and morals, while the Jatisabha had the power to excommunicate individuals from their castes or communities.

**Procedure of Expiation**

The Peshwa held the position of both the judicial head and the ecclesiastical head in the Maratha state, thereby assuming the responsibility for regulating penance or Prayaschita. Within the societal context of the Maratha state, numerous crimes were

[55] Gune, *The Judicial System of The Marathas*, pp. 107-109.

viewed not only as legal transgressions but also as sins. Consequently, individuals convicted of such crimes were subjected to dual forms of punishment. Firstly, they faced the penalties imposed by the State, which encompassed fines, mutilation, imprisonment, and other measures. Secondly, they were obligated to undergo Prayaschita or penance to seek acceptance within society. Both forms of punishment were officially sanctioned and enforced by the State.

For instance, the act of murder was considered both a crime and a sin within Maratha society. As a result, individuals found guilty of murder were subjected to state-imposed punishments such as fines, imprisonment, and, in some cases, execution. Additionally, they were typically required to perform Prayaschita or penance in order to attain societal reconciliation. Even if an individual was declared innocent by the State, they were still expected to undertake penance, as being involved in a judicial proceeding, whether as a defendant or otherwise, was viewed as a sinful act in society. The societal perception held greater significance than the court's verdict. Consequently, regardless of the court's decision, individuals accused of offences were compelled to perform penance, as they were regarded as impure within the social fabric.[56] This mechanism of punishment affected not only those who were found guilty and faced the dual consequences of committing a single crime but also the innocent individuals who were obliged to undergo penance despite their lack of involvement in any criminal activity. This situation arose due to the Maratha state's role as an ecclesiastical authority, exercising control over religious and social affairs by mandating penance for convicts, defendants, and even those who were entirely innocent. The State employed religious laws as a means to regulate social affairs, thereby granting official legitimacy to various societal and religious beliefs and practices.

The authority of the Peshwa extended not only to the imposition of punishments but also to matters of excommunication, at times involving entire communities. An example of such excommunication occurred when it was deemed offensive for individuals to arrange marriages between their daughters and close relatives such as nephews and cousins. Under the Portuguese regime in Bassein, members of the Yajurvedi Brahmin community allowed such marriages to take place. However, during the Maratha regime, this practice was considered an offence, leading to the

[56] Sen, *Administrative System of The Marathas*, pp. 397-398.

excommunication of the entire community. The Peshwa enforced this order and imposed a fine of 50 rupees on each member of the community, with the responsibility for enforcement falling under the jurisdiction of the office in charge of Bassein.[57]

The caste system played a significant role in shaping the judicial mechanism, as the laws governing the judiciary were derived from Hindu laws rooted in caste rituals. Typically, matters pertaining to caste offences were decided by the offender's own community, but there were instances when state intervention occurred. Hiroshi Fukazawa argues that Brahmins predominantly presided over cases unrelated to caste offences committed by non-Brahmins. In the context of caste-related offences, non-Brahmins were compelled to engage with Brahmins in an official capacity. This arrangement, established and maintained by the State, elevated the legal and official status of Brahmins, resulting in their exertion of legal, political, and social dominance over non-Brahmins. The State's policy regarding the judicial system thus ensured the privileged position of Brahmins.[58]

In cases where the State resolved suits involving individuals from any caste, it was the responsibility of the government and the Brahmasabha to oversee the performance of penance rituals aimed at restoring the offender's caste status. However, in cases that were not directly resolved by the State, expelled individuals were required to seek permission from a Brahmin associated with a holy place in order to perform penance. To obtain this permission, they needed letters of request from their caste leaders or public officials, accompanied by a fee payment, to facilitate the purification process and allow the guilty party to engage in penance. Prior to undertaking the penance, offenders were required to provide a detailed statement of their offence and express full repentance, referred to as the Doshapatra. Upon completion of the penance, the Brahmins of the respective place would issue a Shuddhipatra, serving as proof of the offender's purification.[59] Thus, both in suits resolved by the State and in other cases, offenders of any caste had to interact with Brahmins, either as part of the Brahmasabha or as representatives of holy places, and were provided with the Shuddhipatra by the Brahmin authorities.

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[57] Sen, *Administrative System of The Marathas*, p. 403.

[58] Fukazawa, *The Medieval Deccan*, pp. 94-95.

[59] Gune, *The Judicial System of The Marathas*, p. 113.

According to Fukazawa, the government upheld the norms of all castes but demonstrated a particular preference for Brahmins. The State formulated certain codes of conduct that included discriminatory practices, such as denying lower castes the right to wear sacred threads, which further reinforced the elevated status of Brahmins. Another discriminatory practice involved the State's certification that only Brahmins were permitted to perform specific rituals. Officially, Brahmins were required to recite Vedic mantras, while non-Brahmins recited Puranic mantras. The State organized meetings to distinguish the rituals performed by the untouchables from those practised by Brahmins and other castes. These measures, though aimed at preserving the distinct rituals and practices of each caste, further contributed to the privileged position enjoyed by Brahmins.[60]

**The Procedure of Readmittance into Caste - *Jati Danda***

Upon receiving the Shuddhipatra, the excommunicated individuals returned to their native communities to present proof of their penance. This was followed by a dinner hosted by the offenders to demonstrate their readiness for social reintegration. Among the lower classes, this practice was known as Panktipavana and Gotai. In cases where the caste community denied readmission, the individuals had the option to seek intervention from the government.

For those who were outcasted, accepting another caste required undergoing a religious procedure known as Ghatasthota, which involved severing all ties related to their former caste. Additionally, provisions allowed for individuals to convert back to Hinduism. However, a waiting period of eight years was imposed before reconversion could occur.[61]

Communities were required to seek permission from the State to remove or readmit outcastes and excommunicated individuals. An example from 1742-43 involved a man named Malharji Jadava, who was excommunicated by his community and Shete Mahajan. Upon learning of this, Raja Shahu ordered the respective community and Shete Mahajan to readmit him. In another instance, a Brahmin who had converted to Islam later decided to reconvert to Hinduism. While his community restored him to his former caste, the State did not permit his readmission, resulting in his permanent

[60] Fukazawa, *The Medieval Deccan*, pp. 98-106.

[61] Gune, *The Judicial System of The Marathas*, p. 114.

removal along with his wife.[62] These examples highlight the authority of the State in overruling community decisions regarding excommunication and readmission. The State's intervention demonstrates its control over matters related to caste offences, with society being required to accept and abide by the State's decisions. There were cases in which offenders were permanently removed from their castes by the State. If a community was found to readmit someone without informing the State, the entire community would be expelled, or the unofficially readmitted offender would face heavy fines. The person who was readmitted into their caste was also required to pay a certain amount as a fine to the State. These instances illustrate that economic factors played a role in the State's interference in caste-related suits.[63]

According to S.N. Sen, the practice of penance through the performance of religious rites for the purpose of readmitting an outcasted individual into their caste was not unique to the Marathas. This concept can be traced back to ancient Hindu lawgivers like Gautama, Manu, and Vishnu. The Marathas, in adopting this idea of religious penance, were part of a larger historical transition that had been taking place for centuries.[64] It is worth noting that other states preceding the Marathas, such as the Mughals and Deccan Sultanates, also incorporated and followed similar practices of religious penance.

**Forms of Punishment**

The Maratha Empire employed a range of punishments to maintain law and order within its territories. In the absence of a written code of laws, the law keepers relied on traditional norms to determine suitable penalties for various offences. The overarching goal of these punishments was to deter potential wrongdoers and ensure social order. The severity of the punishment was often commensurate with the gravity of the crime, with more severe penalties reserved for serious offences. This approach sought to instil fear and discourage individuals from engaging in criminal activities.

The Maratha Empire employed a range of punishments to maintain law and order within its territories. In the absence of a written code of laws, the law keepers relied on traditional norms to determine suitable penalties for various offences. The overarching

[62] Fukazawa, *The Medieval Deccan*, p. 96.

[63] Ibid., pp. 97-98.

[64] Sen, *Administrative System of The Marathas*, pp. 359-360.

goal of these punishments was to deter potential wrongdoers and ensure social order. The severity of the punishment was often commensurate with the gravity of the crime, with more severe penalties reserved for serious offences. This approach sought to instil fear and discourage individuals from engaging in criminal activities.

Various forms of punishment were utilized, including mutilation, fines, death sentences, and imprisonment. The selection of a particular punishment depended on factors such as the nature of the offence and prevailing societal norms. It is important to note that punishments were not applied uniformly and varied based on caste considerations. Brahmins, for example, were exempted from capital punishment. Over time, the modes and severity of punishments underwent changes. During the period of the Peshwas, fines and imprisonment gained more prominence, while capital punishment and mutilation were less prevalent. There was a strong emphasis on upholding traditional and customary laws, ensuring punishments aligned with sastric norms.

The Maratha Empire employed a variety of punishments to address different offences. Mutilation was one such form of punishment reserved for severe crimes. During the reign of Peshwa Madhavrao II, individuals convicted of murder, treason, dacoity, theft, and similar offences were not only sentenced to death but also subjected to mutilation.[65] Execution of these punishments was carried out by officials who followed orders from their superiors. The methods of punishment included stamping by an elephant's foot, branding, execution by firing a gun, beheading, severing of limbs, and leaving the criminal in a location where assistance from others was prohibited.[66] In conspiracy and treason cases, individuals found guilty were subject to specific punishments. They could be blown from the mouth of a cannon or gun, beheaded, or have one or more limbs severed.[67] If the convicted person belonged to the Brahmin caste, they were put in chains instead. These examples highlight the differentiated nature of judicial laws, where punishments were influenced by the offender's caste. Lower-caste individuals often faced more severe penalties for the same offence, indicating an unequal application of justice. However, it is essential to note that death sentences were not

[65] Sen, *Administrative System of The Marathas*, pp. 393-394.

[66] Gune, *The Judicial System of The Marathas*, p. 106.

[67] Mahajan, *Maratha Administration in the 18th Century*, p. 166.

imposed on Brahmins, women, and infants, although they were subjected to other rigorous punishments.

The punishment for murder in the Maratha Empire entailed imprisonment and a fine of one thousand rupees. Additionally, the convicted individual was beheaded at the location where the murder took place. Family members of the murderer were also apprehended and held accountable for the crime. Interestingly, even if a person was found innocent after a trial, they were still required to undergo a purification process, indicating that their involvement in a legal case rendered them impure in the eyes of society. Those convicted of robbery or dacoity faced beheading and, in some cases, were subjected to fatal beatings. Offenders charged with theft had their hand(s), leg(s), or ear(s) severed, depending on the severity of the offence. Furthermore, anyone found guilty of purchasing stolen property was obligated to pay the State one-fourth of the commodity's value. Notably, slaughtering a cow was considered a more egregious offence than taking a human life, warranting direct intervention by the State, which imposed punishments such as severing a hand or leg.[68]

According to S.N. Sen, the use of mutilation and fines as punishments was not exclusive to the Marathas but had roots in ancient Hindu legal texts authored by figures like Shukacharya, Manu, and Vishnu. These ancient lawgivers proposed various forms of mutilation and fines for different types of crimes. For example, Manu stated that for theft exceeding fifty palas in value, the offender's hands should be amputated, while in other cases, a fine of seven times the value should be imposed. Stealing individuals from noble families, particularly women and valuable gems, was deemed deserving of corporal or capital punishment. Regarding the theft of large animals, weapons, or medicines, the punishment was left to the king's discretion, considering the circumstances and purpose of the crime. Vishnu prescribed that an inferior caste member who insults or harms a superior should be deprived of the corresponding limb. A person who stole a cow, horse, camel, or elephant would have one hand or one foot amputated, while someone who stole gold, silver, or clothing valued at more than fifty Mashas would lose both hands. These references demonstrate that the Marathas adopted the concept of mutilation and fines as punishment with certain modifications. This adoption can be seen as part of an ongoing transition that has been occurring since

[68] Mahajan, *Maratha Administration in the 18th Century*, p. 167.

ancient times. It is noteworthy that earlier powers, such as the Mughals, Deccan Sultanates, and other kingdoms, also incorporated such forms of punishment.[69]

[69] Mahajan, *Maratha Administration in the 18th Century*, pp. 556-558 and pp. 651-653.

## CHAPTER 2

## EXPLORING THE MARATHA JUDICIAL SYSTEM: ORIGINS, CHARACTERISTICS AND VARIATIONS OF PANCHAYAT

The Panchayat system held a prominent position within the judicial framework during the reign of the Peshwas. It assumed a role similar to that of the Majlis in the earlier Shivshahi period. Before delving into a detailed examination of the Panchayat system during the Peshwa era, it is crucial to understand the concept of a Panchayat itself. According to the dictionaries of the time, a Panchayat was defined as an Assembly of Arbitrators.[1] V.G. Apte elaborated that a Panchayat was a 'Panch Mandal' or a Council of Five individuals appointed to settle disputes.[2] In essence, the Panchayat system constituted an assembly of five individuals, known as Panchs, who were entrusted with the responsibility of dispensing justice and resolving conflicts between the litigant and the defendant. These Panchs were selected from the esteemed and influential members of the business community or caste. During the selection of Panchs aimed to ensure complete impartiality and independence in the decision-making process, it was imperative that they possessed qualities such as honesty, impartiality, knowledge, and a lack of involvement in fraudulent activities or treason [3]. Respected and trustworthy individuals from society were chosen to serve on the Panchayat. The decisions rendered by the Panchayat held significant weight and were considered divine pronouncements by the arbitrators. As a result, many official documents pertaining to elections during the Peshwa era commenced with sacred phrases such as 'Panch Parmeshwarache Sevesi' or 'Gotkasiche Sevesi'. The litigant and the defendant would frequently express their willingness to accept the decisions of the Panchajag (five-faced God), urging the Panchayat to conduct its proceedings accordingly.[4] The belief that the Panchayat system was connected to the divine Panch Parmeshwar (five-faced God) gained traction

[1] J. T. Molesworth, *A Dictionary English And Maratihi,* (2nd Edition), Shubhada Saraswat Publications, Pune-5, 1831 (First Edition), p. 482.

[2] Vasudev Govind Apate, *Marathi Shabd Ratnakar*, Keshav Bhikaji Dhawale, 1939, p. 335.

[3] Shridhar Venkatesh Ketkar, *Maharashtriya Gyanakosha* (Encyclopedia), Part 17, Maharashtriya Gyanakosha Mandal, Nagpur, 1925, p. (4) 2.

[4] V.T. Gune, *Judicial System of the Marathas*, Deccan College, Yerwada, Pune, 1953, pp. 49.

among the populace, further enhancing the popularity and acceptance of the Panchayat system during the Peshwa era.

Even after the decline of the Peshwa rule in 1818, numerous communities have continued to maintain their Panchayat system up to the present day. The precise origins of the Panchayat system in the Swarajya (self-rule) are challenging to ascertain, but documents referencing the Panchayat can be traced back to approximately 1723 AD.[5] Notably, Khandoji Pant, in a letter requesting the submission of relevant documents, supports this claim, which will be included alongside this verbal request.

Based on the available evidence, it can be inferred that the Panchayat system was established in the Swarajya around 1720, coinciding with the reign of Bajirao I. In his analysis of the commencement of the Panchayat system, V.T. Gune asserts that its rise and the culmination of the Majlis (an earlier council) were part of a highly organized process.[6] Consequently, both the Panchayat and the Majlis find mention in several election documents. One such document, dated 24th Rabilkhar, pertains to the town of Indapur and involves the Mahar and Mang communities. In this context, they were directed to gather at the location of Paitan. The Mahar and Bahirnak Mahar communities, along with the Tananak Godnak Mang community, submitted resignation letters expressing their willingness to accept the decisions made by the appointed Panchayat.[7] Subsequently, the Majlis witnessed the lifting of restrictions by a pandit and observed the subsequent restrictions imposed by the Maharani herself.[8] The livelihood of the community would entail accepting cloth offerings for the deceased, receiving 4 Rupees, and bringing the auspicious symbols of Goddess Mahalakshmi and the Pedhiya community to the village. This practice specifically pertained to the Mahar community. The Bhumiputra Mahar also brought the auspicious symbols of the Pedhiya community to the village, although there were no explicit demands connected to this act. By fulfilling the prescribed conditions, they were instructed to sustain their livelihood through knitting and rope-making. In accordance with these directives, they convened after their visit to Paitan, culminating in the selection of Halli Mahar and Mang. The mentioned document serves as an official record of the Panchayat in the

[5] *Senapati Dabhade Daftar*, Part-1, ed. S.N. Joshi, B.I.S.M., Pune, 1951, p. 5.50.

[6] Gune, *Judicial System of the Maratha*, p. 39.

[7] Mavji and Parsanis, Vatanpatre, Nivadpatre, etc., p.56, Pune, 1909.

[8] Gune, *Judicial System of the Maratha*, p. 229.

Khadki region, with Sadahu Hardojan Mahar and Mang Kasbe Majkur being chosen as representatives between them. It is evident that the rise of the Panchayat system coincided with the decline of the Majlis. This transition from the Majlis to the Panchayat can be viewed as a well-organized process. After the passing of Chhatrapati Shahu Maharaj in 1749, the Majlis, which had lost the support of contemporary society, completely merged. Subsequently, from the year 1750, during the Peshwa era, the term 'Panchayat' gained popularity as a governing system.

The significance of the growing popularity of the Panchayat lies in the autonomy it provided in the selection of arbitrators for both the plaintiff and the defendant, based on mutual trust. In a letter addressed to Moje Fulsungi, a Patel from Pune, Rajashri Bapuji Shripat Yaspate highlights the case of Hardu Vadi seeking justice. Hardu Vadi expressed his willingness to have the matter resolved fairly but mentioned that if dissatisfied, he would approach Diwan for justice. In this context, he agreed to abide by Fulsungi's decision, resulting in both parties submitting their resignations. The emphasis here lies on the importance of having the freedom to choose arbitrators based on trust and their demonstrated sense of justice.[9]

The Panchayat system fostered a perception that the decisions rendered by the judges, known as Panchas, were divinely ordained. In this system, both the plaintiff and the defendant acknowledged the Panchayat's verdict as the will of God.[10] The selection of Panchas, who served as judges, was independent for both parties involved in the dispute. If there were eleven eligible Panchas available for selection within the local area, there was no practice of seeking judges from outside the region.

The process of appointing judges was expedited, as the proponent, opponent, and judges resided in close proximity to one another. Consequently, the Panchayat's decisions were promptly delivered. While there is no specific mention of the time required for resolving different types of disputes during the Peshwa era, civil cases generally lasted between fifteen days to one month. The associated fees for such cases ranged from five

[9] Madhukar Kulkarni, *Peshawaitil Nyayadan*, Manasman Prakashan, Pune, 1998, p. 8.

[10] *Peshwa Daftar*, Volume 45, ed. G.S. Saradesai, Government Central Press, Mumbai, 1930, p. 139.

thousand or more, with the proceedings lasting for two years. However, cases pertaining to the country could extend over a much longer duration, even up to twenty years.[11]

Civil cases necessitated a slightly longer timeframe for resolution by the Panchayat, while criminal cases were typically resolved in a shorter span of time. For instance, in the village of Telgav, a man named Jadhav killed a duck and disposed of its body in a well. The Panchayat promptly initiated an investigation, and within five days, after examining crucial evidence such as bloodstains, the corpse, and the motives behind the act, they delivered a verdict against the accused. The following document provides further insights into this case: "We, Godji Jadhav, Ranoji Jadhav, Raghoji Jadhav, residents of the village of Daradbar in Sivam, ambushed and killed Batik. We then hung her body on a tree and assaulted her at night. The next day, we transported her to Majkuri village in Gavanjik Budhwadi. On that same day, Sambhaji Sindhe arrived from Telgav to investigate the matter, and we acknowledged the evidence he presented.[12] In this manner, serious offences such as murder were diligently investigated and resolved by the Panchayat, with the judges issuing their verdicts promptly. This expeditiousness contributed to the widespread popularity of the Panchayat system among the people.

**Autonomous Panchayats of Caste**

During the Peshwa era, the societal structure was characterized by a division into numerous castes, each of which had its own caste panchayat or Gota. These caste panchayats played a pivotal role in addressing internal matters and conflicts within their respective castes. Their primary function was to resolve disputes and maintain social order within the caste community.

To illustrate, if a member of the Tamboli caste committed an offence or acted inappropriately, the Tamboli panchayat would act by expelling the wrongdoer from the caste. The panchayat would then correspond with the authorities, urging them to administer appropriate punishment for the transgressor. The collective efforts of the caste community were also directed towards enforcing the punishment imposed, often by isolating the offender. This isolation typically lasted for a duration of two days,

[11] *Peshwa Daftar*, Volume 45, ed. G.S. Saradesai, Government Central Press, Mumbai, 1930, p. 139.

[12] *Senapati Dabhade Daftar*, Part-1, p. 44.

during which the individual received sustenance from members of their own community. Following this period of purification, the individual would be readmitted into the caste and allowed to reintegrate into society.[13]

In the context of caste panchayats, any attempt by an outsider to interfere or take action within the community was considered a criminal act. As a consequence, such individuals would receive a formal letter from the panchayat, and the village community would gather at the panchayat led by Sayaji Mali in Satara. This gathering served the purpose of purification and reintegrating the individuals back into their respective castes. The document in question contains the signatures of 21 panchas from the Tamboli caste, representing various locations such as Pune, Supe, Sikhlal, and Bhovar.

Another notable illustration of the caste panchayat system can be observed among the Sonar (goldsmith) caste in Mumbai. This particular caste panchayat issued instructions to its members regarding their attire, specifically directing them to wear dhotis without pleats and to greet each other with the phrase 'Namaskar'. However, these practices were viewed as a violation by the contemporary Peshwas and the Brahmins of Pune, who perceived them as encroachments on their own caste customs. Consequently, the Sonar caste panchayat received an order from Damulset Trimbakset on the 9th of July, 1779, instructing its members not to wear dhotis without pleats and not to greet each other with 'Namaskar'. This order was disseminated to all Sonars by the leaders of the caste panchayat.[14]

Even smaller castes, such as the Tamboli caste, established their own panchayats to address community matters. A notable instance involved an accused woman from the Tamboli caste in the city of Satara who was accused of adultery. The Tamboli caste panchayat suspended her from receiving food within the community during the investigation. However, as the accusation was proven baseless, the Tamboli caste panchayat reinstated her rights to receive food,[15] highlighting the panchayat's role in administering justice and safeguarding the interests of its members.

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[13] *Peshwekalin Samajik va Arthik Patravyavahar*, *1722-1854*, ed. R.V. Oturkar, B.I.S.M., Pune, 1950, p. 121.

[14] B.R. Ambedkar, 'Preface', *Janata*, 7th March 1936.

[15] Kulkarni*, Peshawaitil Nyayadan*, p. 90.

Under the rule of Shivshahi (Peshwa), caste panchayats were prevalent among prominent castes such as Brahmin, Maratha, Mali, Mahar, Sonar, Parit, and Vani. Notably, the Brahmins had their distinct Brahmin Sabha, while other castes formed their own panchayats to address caste-specific issues. The caste panchayat system became deeply entrenched within Marathi society, aligning with their cultural traditions and caste preferences. Even after the integration of the Peshwai system in 1818,[16] some caste panchayats continue to exist today, reflecting their enduring significance and the ongoing importance of community cohesion and dispute resolution within caste-based social structures.

**Cross Examination of Witnesses**

Upon hearing the arguments and counter-arguments presented by the prosecutor and the defence, it was customary for witnesses to undergo a purification ritual before taking their oath. This involved bathing in a sacred river or within the temple premises while carrying a bell jar obtained from the deity's statue. The witnesses would then proceed to swear upon their ancestors' curses, taking the witness's oath. As part of this ritual, the following words were recited: "In the Chandrabhaga River, standing upright with hands folded, holding the sacred basil from the divine platform, may the truthful words of our forefathers be fulfilled."[17] This process was followed in order to bring forth and present the witness before the court. Another commonly used phrase was: "Witnesses shall be brought forcefully, under the influence of Rudra, to the Pimpleshwar Mahaghati Temple, where they shall undergo the bathing ritual and have the witness bell tied around their necks. Once the witness has testified, the details shall be recorded in Marathi at the Umbraj village."[18]

The process of taking a witness's oath is described in meticulous detail. If the witness wished to provide testimony regarding their place of origin, they would take an oath by offering it to a deity such as Krishna, Bhima, Ganga, or any other sacred river. This would involve bathing in the river and subsequently signing a witness document. This practice represents the customary method of administering the witness's oath. Following the exchange of oaths between the witness and the court, if any doubts or

[16] Prabhakar Mande, *Gavagadyabaher*, Parimal Prakashan, Aurangabad, 1983, p. 281.

[17] Mavji and Parsanis, *Vatanpatre, Nivadpatre*, etc., p. 69.

[18] Gune, *Judicial System of the Maratha*, p. 308.

suspicions arose regarding the witness's actions or intentions, a thorough examination of their thoughts and behaviour would ensue. Only after demonstrating their commitment to truthfulness and honesty would the witness proceed to present their testimony. An alternative method known as Belbhadrara could also be employed, involving the offering of Tulsi leaves in a gathering or seeking confirmation through touching the feet of a Brahmin.[19]

If the witness belonged to the Muslim community, they were administered the oath on the holy Quran.[20] This act of taking the oath was deemed as establishing the witness's competency.[21] Subsequently, their testimony was meticulously recorded in written form. In cases where a witness was illiterate, they would provide their testimony by verbally dictating the relevant facts, which would then be transcribed into a written record.[22] The recorded testimony would subsequently be read out to the witness for verification. Despite the precautions taken, if it was determined that a witness had provided false testimony against an individual, a notation would be made to hold the false witness accountable for their actions. This included the imposition of penalties on the witness who had given false testimony, as well as on the party that had presented the false witness. Nana Fadnavis, in a separate letter addressed to the British government, explicitly stated that no punishment was meted out to witnesses except for those who had been proven to provide false testimony. He further emphasized that appropriate measures had been initiated by sending a letter to the respective superiors to address the matter.[23] This correspondence unequivocally highlights the fact that punitive actions were taken against witnesses who had provided false testimony.

The meticulous procedure of cross-examining witnesses played a pivotal role in instilling public confidence in the Panchayat system. As a result, the Panchayat gained immense popularity among the general populace.

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[19] *Peshwa Daftar*, Volume 45, p. 141.

[20] *Marathyancha Itihasachi Sadhanen*, Volume 20, ed. V.K. Rajwade, B.I.S.M., Pune, 1910, p. 199.

[21] Vasudevshastri Khare, *Nana Fadnavisanche Charitra*, Meraj, 1927, p.156.

[22] *Ramshastri Prabhune Charitra Va Patre*, ed. Sadashiv Aṭhavale, Shrividya Prakashan, Pune, 1988, p. 52.

[23] *Ibid.*, p.143.

**Punishment for the Offender**

During the Peshwa era, both the Diwani and Faujdari authorities held the power to adjudicate and address complaints pertaining to various types of crimes.[24] Consequently, the Panchayat was entrusted with the responsibility of imposing stringent punishments on offenders. Within this context, instances arose where the Panchayat forcibly arranged marriages with young girls, leading to the affected individuals resorting to begging for sustenance within the village. Notably, an archival record recounts the case of Tribhuvan Dharp and Karmarkar, who coerced a girl named Nond into marriage, subsequently prompting her to wed Joshi and bear a son named Chulte Bhau. Fleeing to the city, they managed to evade any repercussions, resulting in the ostracism of the Bandikheri caste. Consequently, the village faced the plight of poverty and widespread begging. In response, Rajashri Shastri Bavachi (Ramshastri Prabhune), drawing upon Vedic scriptures, issued a decree that sought to instil such a level of education that would deter individuals from committing similar crimes.[25] Hence, in 1778, Shastri Prabhune characterized such an educational program as a form of humiliation.

Similarly, in the case of Tulaji Pawar, who was trapped on the walls of Chakan Fort, he endured a grievous punishment that left him with a broken leg and abandoned[26]. The village chief, known as the Patil, also underwent the ordeal of receiving an education when his tax collection fell short. The detailed account of his education entailed the application of iron clamps to his hands, wrapping him in a Sindhi blanket, striking him with a bamboo stick, and subjecting him to repeated scalding with hot water.[27] Furthermore, Gangadhar Yashwant Chandrachud, a respected Sardar in the Pune court, did not receive the full payment for a contract amounting to thirty lakh rupees.[28]

Gangadhar Yashwant Chandrachud, Baji Vitthal (Meheena) SankhBhat, and their son were summoned to Thoralya Chowk in Pune, where they endured a brutal beating that left them bloodied and injured. The meticulous account of their torture, recorded on the

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[24] V. K. Bhave, *Peshwekalin Maharashtra*, Varada Prakashan Pvt. Ltd., 2010, p. 382.

[25] D.V. Apte and R.V. Oturkar, *Maharashtracha Patrarup Itihas*, Anath Vidyarthi Griha Prakashan, Pune, 1963, p. 175.

[26] Kulkarni*, Peshawaitil Nyayadan*, p. 162.

[27] *Ibid.*, p. 143.

[28] *Selections from the Peshwa Daftar*, Volume 43, p. 116.

15th of August, 1768, describes their consecutive-day summons to the Diwan Khana (court). Alongside them, Baji Vitthal Meheena, SankhBhat, and Ch. Dada was also present. The wealthy woman, displeased with their reluctance to be present during the counting of money, unleashed a particularly severe beating on the choughas (caste). Baji Vitthal Vyasa endured three blows, while Tata (Gangadhar Yashwant Chandrachud) suffered twelve blows that caused his skin to peel and blood to seep out. Subsequently, an additional fifty blows were administered.[29]

The severity of punishments inflicted upon individuals like Gangadhar Yashwant Chandrachud, Baji Vitthal Meheena, and SankhBhat provides a glimpse into the harsh treatments meted out to the general populace and lower castes during the Peshwa era. Within the Peshwa-era documents, numerous records illustrate collective bans, exile, forced displacement, and physical torture as forms of punishment. These records also highlight the subjected women who faced such punishments. For instance, one document references the imprisonment of Ambabai Phadke, the wife of Moro Bapuji Phadke, in Mahuli Fort, while another mentions the employment of Keso Moreshwar, Moro Bapuji Phadke's son, in chains as he remains incarcerated in Taluka Majkur. Rakhamabai, the wife of Keso Moreshwar, is not deemed guilty, and thus her release is ordered and secured by her brother Vedamurti Jagannath Dikshit Patankar.[30]

These incidents shed light on the extreme cruelty demonstrated by influential individuals and the subsequent punishments inflicted, as well as the unjust treatment and collective penalties imposed upon the general population and marginalized communities during the Peshwa era. The Panchayat system, operating within this era, administered severe and inhumane punishments without regard to social status. Consequently, the Panchayat system garnered popularity and wielded significant influence within society.

The popularity of the Panchayat system during the Peshwa era can be attributed to several factors. The decisions rendered by Peshwa-era society's Panchayats were regarded as divine judgments and adhered to accordingly.

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[29] *Selections from the Peshwa Daftar*, Volume 43, p. 116.

[30] *Dusare Bajirao Peshwe Yanche Rojnishi*, ed. B.P. Joshi, Deccan Vernacular Transliteration Society, Pune, 1908, p. 205.

**Types of Panchayat**

Within the administrative framework of the Peshwa era, a hierarchical structure of Panchayats existed, with distinct operational domains assigned to each level. These Panchayats comprised diverse categories, each led by distinct chief officials.

**Central Panchayat**

The Peshwa administration encompassed a range of central Panchayats, each with its own distinctive characteristics and jurisdiction. Noteworthy among these were the Satara Panchayat, situated in Satara and under the governance of the Chhatrapati, the Pune Panchayat, serving as the Peshwa's Panchayat in Pune, and the Panchayats associated with the Saradaras (chiefs) within the Maratha Confederacy. Comprehensive insights into the various facets of the central Panchayat system will be elaborated upon in the subsequent discussion.

**Parallel Justice System**

Following the year 1750, the designation of "Chhatrapati" became reserved for the reigning king within the administrative framework of the kingdom.[31] However, it is noteworthy that the administrative centre was predominantly concentrated in Satara only in a nominal sense. From the period spanning 1750 to 1818 AD, three individuals, namely Rajaram, Dhakte Shahu Maharaj (also known as Abasaheb Maharaj), and Pratapsingh, assumed the position of Chhatrapati. Subsequent to the demise of Chhatrapati Shahu, the de facto rulership was assumed by the Peshwas, while the Chhatrapati title retained a ceremonial status. Consequently, the administrative hub shifted from Satara to Pune, with Satara preserving its capital status in name alone as the residence of the Chhatrapati.

Within the Peshwai-controlled Satara region, the authority of the Chhatrapati remained unchallenged. Notably, Satara and Pandharpur emerged as crucial cities within these territorial confines. In proximity to these urban centres, several towns and villages such as Javali, Taragao, Karad, Valave, Rai Koregaon, Khatav, Khanapur, and Vijapur were situated. Satara, serving as the stronghold of the Chhatrapati, hosted the highest-ranking official within the region. It was through the Panchayat system that the Chhatrapati dispensed justice in Satara. Two officers, known as Nyayadheesh and Panditrao, assumed the responsibility of judicial duties within the Chhatrapati's Panchayat.

[31] Gune, *Judicial System of the Maratha*, p. 45.

Accompanying them were three judges: Khanderao Kashi, Apaji Khanderao, and Chitaman Chitko Bhatte. The Nyayadheesh and Panditrao received an annual salary of 1,000 units and were also granted a separate territory as a jagir. Additionally, Raghunath Rao and his adopted son Ramchandra Raghurath were entrusted with the significant role of Panditrao.[32]

In each division (Parganas), the appointment of Sar Subhedars (divisional officers) played a crucial role in summoning the Panchayat within their respective regions. Within villages, the position of Patil served as a means to address and resolve disputes. The Patil, in collaboration with the Kulakarni and the Bara Baluters, would convene the Panchayat within their village. Thus, the Sar Subhedar, Mamledar, and Patil collectively facilitated the functioning of the Panchayat system for the administration of justice. In cases where disputes could not be resolved at the Mamledar's level, they would be escalated to the Chhatrapati for final adjudication. A documented example of such a dispute between Patils from Satara was presented before the Chhatrapati in the year 1752-53 A.D. The document stated, "Maloji Banishahaji, in the absence of Hiraji Bhange Mokadam, sent a letter from the village of Vagheshwar, directed towards Mehed, Vyaghragad, and Shahunagar, near your Fort at Satara, requesting the inheritance of Mokadam's land by his descendants, generation after generation, as they lack experience in such matters. In light of this, you and Hiraji Bin Narsoji Huzur Sahib shall remain together. Sahibi and you should bring this matter to the attention of Sahib Krishna ji More in Delhi, and in my village, Bhang, Got, Deshmukh, and Deshpande shall attend to it."[33]

In accordance with the given directives, the village of Bhangar organized a Panchayat to administer a fair trial and ensure the delivery of justice. During this trial, Hiraji Bin Narsoji Bhangar was found to be at fault or guilty. However, Hiraji Bin Narsoji Bhangar disputed the validity of the Panchayat's decision and appealed to the Chhatrapati for a reconsideration of the case. In response to this appeal, the Chhatrapati summoned a Panchayat in Satara to review the matter and render a just judgment. The official statement issued in this context stated, "Hiraji Bin Narsoji Bhangar shall appear before His Excellency as an ordinary citizen. Maharaj Sahib, Deshmukh, Deshpande, and all

[32] Kulkarni*, Peshawaitil Nyayadan*, p. 23.

[33] *Ramshastri Prabhune Charitra Va Patre*, p. 7.

representatives of the Satari community are requested to comply with the orders and ensure justice for the seven individuals involved."[34] Under the leadership of the Chhatrapati, the Panchayat in Satara pronounced its verdict, granting land rights to both Maloji Bin Shahaji Bhangar and Hiraji Bin Narsoji Bhangar. Both parties willingly accepted this decision. Additionally, Maloji Bin Shahaji Bhangar paid a compensation of 200 rupees to the Sherani Government in accordance with the judgment.

The Panchayat of Chhatrapati in Satara held a prominent position within the framework of the Central Panchayat system. This Panchayat consisted of several officials, including the Diwan, Daftardar, Chitnis, Panditrao, and Nyayadheesh, who actively participated and collaborated in the administration of justice.[35] They played crucial roles in ensuring the smooth functioning of the Panchayat's judicial affairs in Satara.

The Panchayat of Chhatrapati in Satara can be regarded as the preeminent judicial institution within its jurisdiction.

**Peshwa's Panchayat**

During the period from 1750 to 1818, the administrative functions of the Swarajya were centralized in the Peshwa's court situated in Pune. The Peshwas assumed a central role in the administrative framework, gradually gaining control over various regions. Nana Phadnis emerged as a prominent figure, assuming responsibility for Peshwa's affairs and exerting significant influence over the Chhatrapati by implementing restrictions. This consolidation of power resulted in the Chhatrapati being confined to the fort in Satara while the Peshwas exercised close supervision. Shrimant Pratap Singh Maharaj's daily notes indicate that "Bajirao did not impart any education."[36] Despite symbolizing sovereignty, the Chhatrapati had become reliant on a figure akin to an assistant. This era, characterized by the diminished status of the Chhatrapati and the growing prominence of the Peshwas, came to be known as the 'Peshwai' period.

Within the Peshwa's administration, the Peshwa's Panchayat held a position of paramount importance, akin to a high court. Key figures within the Peshwa's Panchayat included the Peshwa himself, Nana Phadnis, and the Nyayadheesh, who possessed ultimate authority in judicial decision-making.

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[34] *Ramshastri Prabhune Charitra Va Patre*, p. 180.

[35] A.R. Kulkarni, G.H. Khare, *Marathyancha Itihas*, Vol. 3, 1921, p. 300.

[36] Ibid.

From 1750 to 1818, in a span of 68 years, the Peshwai era witnessed the rule of six Peshwas: Balaji Baji Rao alias Nanasaheb, Madhavrao (Thorle), Narayanrao, Raghunathrao, Sawai Madhavrao, and Bajirao II. Although the tenures of Narayanrao and Raghunathrao were brief, Sawai Madhavrao assumed power at the age of 40, delegating the complete administration of Pune to his brother Baram Baba. Notably, Balaji Baji Rao alias Nanasaheb, Thorle Madhavrao, and Bajirao II actively participated in the judicial proceedings of the Peshwai and held integral roles. The Peshwa of Pune held the esteemed position of Chief Justice in the Supreme Court.

During his Peshwai, Balaji Baji Rao exhibited exceptional proficiency in judicial matters. An instance in 1760 involved a dispute between Babaji Veerkar Khot and Pratap Chavan, resulting in conflicting verdicts from various Panchayats on three occasions. Eventually, it was determined that the verdict favouring Babaji Veerkar Khot was correct, and Pratap Chavan was at fault. However, Pratap Chavan lodged a fourth appeal. In response, Balaji Baji Rao, alias Nanasaheb, provided an extensive opinion, affirming that Pratap Chavan had been consistently proven wrong. He also highlighted Chavan's attempt to employ his brother Firoz Kaziya as a shield, questioning the purpose of involving Firoz Kaziya when the truth had already been established.[37]

The determination of the judicial venue relied upon the operational location of the court. Balaji Bajirao, also known as Nana Sahib, demonstrated his understanding of this aspect regarding jurisdiction within the judiciary. After conducting a thorough examination of the case, he explicitly stated his decision.

During the tenure of Madhavrao Peshwa Thorele at the Pune Nyaynavadya, he actively engaged as a litigant, defendant, and witness. Even amidst military campaigns, Madhavrao Peshwa would frequently suspend proceedings to prioritize judicial matters. Pertinent documents provide insights into this practice. One such document references the dispatch of Hingane's scribe's handkerchief from Pune, carrying Shrimant Sahib's instructions to recall Kajiyas to memory. Beniram Sevessi, following the directives of Shrimant Sahib, dispatched the handkerchief. The handkerchief symbolizes a message related to the Hingane matter, which needs to be understood in the context of Madhavrao Peshwa's military campaign. During his stay in the village of Taklebari, while engaged in a military campaign, Ramshastri Prabhu penned a letter to Moro Hari

[37] A.R. Kulkarni, *Punyache Peshwe*, Rajhans Prakashan, Pune, 1999, p. 68.

as per the orders of Madhavrao Peshwa.[38] Even amidst military operations, Madhavrao Peshwa ensured time was allocated for the dispensation of justice. Another significant letter by Madhavrao Peshwa supports this practice, wherein he instructs Ramshastri Prabhu to arrive at Mukkam Amdanagar in Laskarat (military camp) with ease and comfort on Sunday as part of his orders.[39]

In accordance with the explicit instructions of the esteemed Swami, I have come here to request the presence of the honourable gentleman and convey the received messages. Baloji Palade and other household members are residing here, and I have been directed to stay under their supervision, as instructed. These two letters from Thorele Madhavrao Peshwa vividly illustrate his deep commitment to matters of justice. It is evident that, while engaged in military campaigns, he actively participated in the Peshwa Panchayat to ensure the administration of justice. Thus, his presence as a litigant, defendant, and witness during the proceedings of the Pune Darbar is deemed essential, leaving no room for uncertainty.

**False Incidents of Testimony**

Instances of false testimony have been documented, leading to the need for re-examination of witnesses. It is important to note that witnesses were subjected to careful scrutiny and were not considered reliable unless the examining authority was completely convinced of their truthfulness. Numerous records highlight cases where witnesses provided false testimony and faced severe consequences. For instance, Ramchandra Hari Mahajan of Shri's temple initially provided false testimony within the temple premises but later recanted his statement outside, claiming it was received as alms. The motive behind such actions remains to be determined. In another documented case, Bhikaji Vishwanath Jogalekar, a Mahajan of the Angarakas, provided varying accounts of false testimony in two separate instances.

Bapubhat Ganeshbhat, also known as Harbhat, composed one letter and dictated another concerning the testimonies of Khare Yajakar, Kharbhat Yajakar, and Navad, who served as witnesses and scribes. Following a meticulous examination of their testimonies, it was determined that Bapubhat Ganeshbhat Khare was guilty of providing false testimony. Consequently, an order was issued to impose a penalty of 40 rupees on

[38] *Ramshastri Prabhune Charitra Va Patre*, p. 7.

[39] *Ibid.*, p. 42.

this culpable party. These documents vividly illustrate the meticulous approach adopted by Madhavrao Peshwa in the conduct of judicial proceedings. On the 5th of August, 1768, Madhavrao Peshwa demonstrated his dedication to judicial matters by ensuring firmness in the court proceedings.[40]

Upon Madhavrao's demise, Bajirao, also known as Bajirao Raghunathrao, assumed the position of Peshwa and served diligently for an extended period. Despite encountering some setbacks during his tenure, Bajirao did not tolerate any laxity in fulfilling his duties related to the administration of justice. Certain aspects of Bajirao's governance shed light on the mismanagement of resources within the realm. Balaji Vyankatesh Yajak reported these irregularities, which were subsequently addressed by Ramchandra Narayan Yajak. However, any accusations or allegations concerning the administration should be accompanied by concrete evidence and proof.[41] This letter from Bajirao Raghunath, dated 1797-98 A.D., generally pertains to the years following his assumption of the Peshwa position. After assuming this role, Bajirao instituted changes in the judiciary system and appointed Ramchandra Narayan as the responsible officer, as specified in the letter.

In the year 1800 AD, an instance of corruption was uncovered in the conduct of Dondo Narayanrao Limaye's work, leading to decisive action by Bajirao Raghunath. As a response, Bajirao Raghunathrao instructed his Mamalatdar, Krishna Rao Mahipatrao, to seize the property belonging to Dondo Narayanrao Limaye in the Someshwar area of Harichiri Taluka. For this purpose, Vinayakrao Karakun and Khijmatgar, two appointed officers, were dispatched to assess and collect the property diligently. Their task involved conducting a thorough investigation, preparing a detailed report,[42] and ensuring the proper valuation and handover of the seized assets to the authorities. By enforcing such measures, Bajirao Raghunathrao aimed to establish his strict judicial administration and reinforce his reputation.

The active participation of the Peshwas in the Peshwa Panchayat in Pune exemplified their unwavering dedication to their judicial responsibilities. Nanasaheb, Thorle Madhavrao, and the second Bajirao garnered high regard within the Peshwa Panchayat

[40] *Peshwa Daftar*, Volume 5, p. 54.

[41] *Dusare Bajirao Peshwe Yanche Rojnishi*, p. 205.

[42] Ibid.

due to their impartiality and commitment to judicial integrity. They carefully considered the perspectives of attorneys and judges, valuing their significant contributions to the judicial proceedings.

Balaji Janardan Bhanu, famously known as Nana Fadnavis, adeptly positioned himself to assume a significant role within the Peshwa's court, thereby establishing his authority and displaying his sense of responsibility. His exceptional competence and efficiency propelled him to become the central figure or linchpin of the Peshwa administration between 1756 and 1800.

Nana Fadnavis skillfully wielded his influence, effectively managing both internal and external adversaries of the Peshwas while diligently serving the state's interests. His instrumental role extended to the administrations of Thorle Madhavrao, Narayanrao, and Sawai Madhavrao, rendering him an indispensable figure in the Peshwa's court. As noted by Y. N. Dandekar, this significant shift in the dynamics of the Peshwa's affairs practically positioned Nana as the de-facto head of the Peshwa administration.[43]

Upon delving into Nana Fadnavis's involvement in the Panchayat system, it becomes apparent that all decisions made by village panchayats, mahal panchayats, subha panchayats, and sarsubha panchayats were subject to his approval. In cases where the aggrieved parties found the resolutions provided by these panchayats unsatisfactory, they adhered to the tradition of seeking redress either through Ramshastri Prabhune or directly approaching Nana Fadnavis for justice.[44] Consequently, Nana Fadnavis occupied a position akin to that of a Supreme Court judge within the judicial framework.

In a letter addressed to Nana Fadnavis, Mahadji Shinde, a respected commander in the Peshwa's administration, acknowledges Nana Fadnavis's authority and brings forth a dispute between Dondo Shankar and Gopal Sambhaji regarding cultivation rights in the Telkund Pargana of Nevasa village. Although the dispute had previously been settled by the court presided over by Justice Ramshastri Prabhune, Gopal Sambhaji resurrected the conflict and resorted to violence against Dondo Shankar, depriving him of his rightful share of the cultivation rights. In light of these developments, Mahadji Shinde

[43] Y.N. Deodhar, *Nana Phadnis and the External Affairs of the Maratha Empire*, Popular Book Depot, Bombay, 1962, p. 213.

[44] Khare, *Nana Fadnavisanche Charitra*, p. 156.

seeks Nana Fadnavis's intervention and urges him to ensure a proper resolution of the matter.

Through Mahadji Shinde's letter, the significant role played by Nana Fadnavis within the contemporary judicial system, particularly in the context of the Panchayat system and ongoing legal proceedings, is underscored.

When Justice Ramshastri Prabhune faced difficulties or encountered challenges during the course of the judicial process, individuals seeking resolution turned to Nana Fadnavis to address their grievances. This is evident from a letter that states, "Whenever Justice Ramshastri encounters hurdles or when an impartial judgment needs to be made, if anyone creates obstacles, their complaints reach Nana Fadnavis."[45]

Nana Fadnavis assumed the role of administering justice for the elected members who appeared before the Pune Panchayat. Numerous documents highlight the significance of Nana's judicial authority. An example can be found in a document that reports the wrongful actions of individuals from the Pawar family, specifically Satgav Sadashiv and Satgav Vani Nimkar, who were apprehended, imprisoned, and had their possessions confiscated based on Nana Fadnavis' instructions.[46]

During the Peshwa rule, there were no specific regulations governing the education of criminals. The officials responsible for education had discretionary power to determine the level of education provided to offenders. However, for criminals belonging to the Bhil, Mang, Ramoshi, or similar castes, Nanasaheb Phadnavis' authorization was not required. Permission from Nanasaheb Phadnavis was only necessary when providing education to criminals from higher castes. This demonstrates the elevated status of Nanasaheb Phadnavis in matters concerning the imparting of education.[47]

To streamline administrative procedures, Nanasaheb Phadnavis revoked the appointments of subordinate officials responsible for counting the proceeds from his estate in each district and introduced the practice of appointing case officers for each district. These case officers served for one year and would be retained for the following year if they acted in accordance with Nanasaheb Phadnavis' directives. However, if a

[45] Kulkarni, *Punyache Peshwe*, p. 68.

[46] Ibid., p. 91.

[47] Khare, *Nana Fadnavisanche Charitra*, p. 156.

case officer engaged in wrongdoing, Nanasaheb Phadnavis would reprimand them sternly.[48]

Within the Pune Panchayat system, Nanasaheb Phadnavis played a crucial role, although his status was subordinate to the Peshwas. From 1756 to 1800, Nanasaheb Phadnavis dutifully fulfilled this role, except for a seven-month period from the 31st of October, 1773, to the 28th of May, 1774, when Raghunath (Raghobadada) assumed the position. During this time, Vitthalrao Rayriker was appointed as Phadnavis.[49] Following the arrival of Savai Madhavrao on the 28th of May, 1774, at a tender age of merely 40 days, the administration of affairs transitioned to Barbhai. Nonetheless, Nanasaheb Phadnavis was subsequently reinstated as Phadnavis, receiving the appropriate recognition for his position.

Nana Phadnis exerted significant influence over the administration during the Peshwa rule, resulting in the recognition of various figures with distinct titles, such as Chitragupta, Manyuttham, and Navakot Narayan. Nana Phadnis passed away on the 13th of March, 1800, ushering in an era of British interference in the Peshwa administration, characterized by factors like Dus-Ya Bajirao. Parakhiyas (clerks) gained prominence within the Peshwa administration, diminishing the significance of Nana Phadnis' position. After his demise in 1827, Nana Phadnis' adopted son, Madhavrao Ballal Joshi, assumed responsibility.[50]

In their commitment to the responsibilities of the Phadnis position within the Peshwa Panchayat, Nana Phadnis and his ancestors actively contributed to the progressive development of Pune. Among the officials in the Pune Peshwa Panchayat, the Chief Justice held the third most significant role. Throughout the Peshwa rule, four justices served in this position: Balakrishna Gadgil, Ramashastri Prabhune, Ayyashastri, and Balashastri Dikshit Tokhekar. These justices presided over both criminal and civil cases, including disputes pertaining to caste and social matters.

Balakrishna Gadgil, the first justice in the Peshwa administration, lacks specific information regarding the nature of his work as a justice, aside from references to his

[48] Deodhar, *Nana Phadnis and the External Affairs of the Maratha Empire*, p. 213.

[49] Arvind Tatke, *Nana Fadnavis*, Meenal Prakashan, Kolhapur, 1998, p. 26.

[50] G.S. Sardesai, *Marathi Risayat*, Volume 3, Popular Prakashan, Mumbai, 1979, p. 142.

role in available documents concerning judicial decisions of the Peshwa. Consequently, it remains inconclusive whether Balakrishna Gadgil indeed held the position of justice.

Ramashastri Prabhune, a Brahmin belonging to the Sata-Yajurvedic branch and following the Rigvedic tradition, hailed from Mahuli. He completed his studies in Kashi (Varanasi) and entered the Pune court as an "Ashrit Shastri" during the reign of Balaji Bajirao, also known as Nanasaheb Peshwa, in 1751 AD.[51] From 1751 to 1752, he received a monthly salary of forty rupees, which increased to 150 rupees in 1761 AD.

The available records indicate that Ramashastri Prabhune served as a judge in the Pune court starting from 1754 AD.[52] He continued his role as a judge until his death in 1789 AD, with the exception of a ten-month period from the 31st of August 1773 to July 1774, when he resigned from the position. This resignation was prompted by his crucial responsibility as the chief messenger of Peshwa Narayanrao for executing the death sentence of Raghunathrao Autade, after which he observed a period of penance.[53] Following a brief period of forty days, when Savai Madhavrao assumed the position of Peshwa, Ramashastri Prabhune resumed his duties as a judge, assuming the responsibilities of Barabhai.[54]

During the administration of Barabhai, significant individuals such as Sakaram Bapu, Nana Fadnavis, and Haripant Phadke played pivotal roles. Eventually, both Sakaram Bapu and Nana Fadnavis retired from their positions, leading to the reinstatement of Ramashastri Prabhune, who had previously retired, to serve once again as a judge.[55]

In the course of his tenure under Barabhai's administration, Ramashastri Prabhune encountered various hindrances that impeded the impartial and efficient execution of his judicial responsibilities. When faced with unwarranted interference from certain individuals that disrupted the proceedings, Ramashastri Prabhune sought the intervention of Sakaram Bapu and Nana Fadnavis, appealing to them to ensure the undisturbed dispensation of justice. On the 26th of September, 1774, Sakaram Bapu

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[51] Gune, *Judicial System of the Maratha*, p. 46.

[52] Ibid., p. 46.

[53] J. Grant Duff, *History of the Mahrattas*, Vol. 1, Oxford University Press, London, 1921, p. 532.

[54] Kulkarni, *Punyache Peshwe*, p. 68.

[55] *Peshwa Daftar*, Volume 5, p. 54.

and Nana Fadnavis jointly issued a letter to address this matter and restrain further interference. The contents of the letter expressed the following sentiment:

> *Esteemed Rajashree Shastribhau, a highly erudite scholar of the Vedas, we humbly draw your attention to the ongoing disruptions hindering the timely administration of justice. In light of this concern, we compose this letter with utmost sincerity. Enclosed herewith is Rajashree Bapu's letter to you as well. We wish to assure you that we devoutly invoke the presence of God and remain steadfast in our commitment to uphold justice without any partiality. It is our sincere hope that justice will be upheld and truth will prevail in the esteemed court over which you preside. With warm regards, [Signed].*[56]

Ramashastri Prabhune's unwavering commitment to judicial independence is evident from the aforementioned letter, which serves as a testament to his dedication to upholding the principles of an impartial judiciary. From 1774 onward, there is no recorded instance of Ramashastri Prabhune succumbing to any undue influence in the execution of his judicial duties.

As a judge, Ramashastri Prabhune received valuable support from two other officials who played significant roles in assisting him:

*Ameen* - The position of Ameen was occupied by three individuals named Moro Hari Vartak, Tryambak Hari Vartak, and Dado Hari Marathe. These individuals provided essential cooperation and support to Ramashastri Prabhune in the discharge of his judicial responsibilities.

*Daftardar* - The position of Daftardar was held by three individuals named Krishnarao Gangadhar, Anandrao, and Lakshmanpant Kulkarni Pethakar. These officials diligently fulfilled their duties and assisted Ramashastri Prabhune in the efficient functioning of the judiciary.[57]

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[56] *Peshwa Daftar*, Volume 5, p. 54.

[57] *Peshwa Daftar*, Volume 45, p. 140.

Ramashastri Prabhune held the esteemed position of a judge in the Pune Panchayat during the Peshwa era from 1754 to 1789. His jurisdiction extended not only to cases arising from the Peshwa's court but also encompassed other Marathi institutions. A letter addressed to Ramashastri Prabhune by Raghujee Angre in December 1781 sheds light on his involvement in resolving a dispute pertaining to genealogy and occupation within the Janjire Kulaba region. The letter emphasizes the need for a resolution, stating:

> *Jyotishi and Kramvant Upadhye Vruchyasi Janjire Kulaba have engaged in a conflict regarding the occupation and rights of Vedic scholar Mahadev Jyotishi Bhalkar and Dhondo Jyotishi Alibagkar. It is essential to settle their dispute at this forum, and thus we have forwarded the Brahmin's opinion to you. Kindly examine the pertinent documents and determine the suitable candidate, after which the decision can be communicated.*[58] *Harisingh Mirde, who served in the Gwalher institution, was granted a reward of 240 acres of land by the Peshwa's court. However, the ownership of this land became a subject of dispute with Mahadji Shinde, the leader of Gwalher. Consequently, Harisingh Mirde lodged a formal complaint seeking judicial intervention. In the complaint, Harisingh Mirde asserts that he acquired the land as a reward through a valid agreement and certificate issued by Peshaji's government. Regrettably, the land has not been transferred to him as expected. Harisingh Mirde contends that Rajshree Shivaji Vitthal's instructions were followed, whereby Peshaji granted him both the land and its associated rights. Furthermore, the land was transferred to Haraki Sarai, as per the government's authority. Harisingh Mirde maintains that the terms stipulated in the agreement and certificate should be upheld accordingly.*[59]

The aforementioned correspondence highlights Ramashastri Prabhune's authority to

[58] *Ramshastri Prabhune Charitra Va Patre*, p. 56.

[59] Ibid., p. 57.

intervene in the court's operations and oversee the re-evaluation of disputes in regional Panchayats. His role can be likened to that of a Chief Justice within the Supreme Court.

Specifically, the document refers to Ramashastri Prabhune's request for the re-examination of a land dispute involving Bikaji Raje Shirke and Lakshmanraje Shirke. It underscores the involvement of Chhatrapati Shahu Maharaj, who displayed a keen interest in resolving the matter. Ramashastri Prabhune sought the necessary documents related to the dispute to facilitate a fresh examination of the case.

Upon receiving documents from locations outside Pune city for presentation in court, Ramashastri Prabhune meticulously verified their authenticity before handing them over to Amin Moro Hari. If the desired outcome was not achieved, the parties involved were summoned to Pune for further deliberations.

Furthermore, the document emphasizes Ramashastri Prabhune's expert conduct of the court proceedings, ensuring justice for the disputing parties. If any party sought favourable treatment during the trial, Ramashastri Prabhune diligently obtained the consent of the Peshwas before granting such requests. This aspect holds considerable significance within the judicial process.[60]

According to the mentioned record, a letter expressing gratitude and seeking blessings was sent by Rajashree Janoba Thakar to Ramashastri Prabhune. The letter acknowledges the expenses amounting to Rs. 5 (five), which have been duly recorded.

After summoning the disputing parties to the Peshwa Panchayat in Pune and conducting the trial, Ramashastri Prabhune, along with his deputies, executed the necessary legal procedures. During the trial, if any party requested a minor favour, Ramashastri Prabhune sought the permission of the Peshwas before granting it. This aspect holds significant importance, as it is mentioned that Rajashree Raosaheb (Late Madhavrao) had granted a special pardon to Ramashastri Prabhune, taking into consideration his association with Sadashiv Vishwanath Kolhatkar and the subsequent punishment. However, Sadashiv Vishwanath's physical condition deteriorated, rendering him critically weak. Consequently, he was unable to attend further proceedings at Trimbakeshwar, and it became necessary for his son to attend the auspicious occasion of the New Year in the month of Vaishakh. Resolving this matter urgently was deemed necessary. Therefore, it is recommended to grant permission to conduct the required

[60] *Ramshastri Prabhune Charitra Va Patre*, p. 68.

rituals and release Sadashiv Vishwanath from any further obligations.[61] This incident occurred in the year 1194 of the Shaka era (1771 AD), and it was deemed essential to purify Sadashiv Vishwanath by administering the appropriate punishment, as agreed upon in the immediate settlement. An order was issued for Sadashiv Vishwanath to undergo purification in Nashik. However, when the time for penance arrived, Sadashiv Vishwanath's condition worsened, rendering him severely incapacitated. At this critical juncture, Ramashastri Prabhune approached Madhavrao with a plea to conduct Sadashiv Vishwanath's purification in Pune itself, granting him the necessary penance. Although Ramashastri Prabhune, as a judge, possessed the authority to grant this favour himself, his strict and disciplined nature led to seeking his permission for the execution of punishments. This underscores the severity of the punishments imposed by Ramashastri Prabhune.

Justice Ramashastri Prabhune held immense authority in the Pune Panchayat, and his decisions carried conclusive weight in all matters. It was a requirement that any person who had been expelled by a local Panchayat or the Brahmin community could not engage in any social interactions unless they obtained a certificate of approval from Ramashastri. This is evident from the following excerpt:

> *Respected Ramashastri, revered by all Brahmins well-versed in the Vedas and Shastras, we bow down to you with utmost respect. Ganga Dhar Somvanshi from Totayakade (a specific location) had undertaken a journey but did not complete the associated rituals and returned. He now expresses his willingness to undergo the prescribed penance. Consequently, he is advised to partake in Panchagavya (a mixture of cow urine, cow dung, milk, and honey), take a ceremonial bath in the sacred river Krishna, recite ten thousand Gayatri mantras, and observe the prescribed rituals. A letter should be dispatched to Pandavgad, addressing the residing Brahmins and instructing them to act accordingly.*[62]

[61] Kulkarni*, Peshawaitil Nyayadan*, p. 85.

[62] Ibid.

In the context of delivering judgments in the Pune Panchayat, Ramashastri Prabhune encountered instances where he faced societal disapproval. During the reign of Bajirao II, a notable and respected figure named Parshuram Pant Phadnavis sought Ramashastri's permission to marry a widow named Bayabai, despite the prevailing social tradition among Brahmins that discouraged widow remarriage. Despite opposition from society, Ramashastri approved remarriage, disregarding the prevailing norms.[63] His decisions had a profound impact, leading many diligent Brahmins in Pune to deviate from established beliefs, while Ramashastri himself remained resolute in his stance.

Ramashastri Prabhune humbly relinquished both his roles as a judge and a magistrate. While there were allegations of delays in delivering verdicts, no accusations of corruption were ever levied against him, underscoring his esteemed reputation. It is noteworthy that Ramashastri Prabhune, belonging to the Deshastha Brahmin community, faced allegations of corruption from the Kokanastha Brahmins.[64] Despite this, he extended financial assistance from the Peshwa's court to alleviate his debts, although he remained indebted until the end.

In the exercise of his judicial duties, Ramashastri Prabhune exhibited a balanced and impartial approach. During a conflict in 1789 between the Brahmin community and the Chandraseniya Kayastha Prabhu caste, Ramashastri sided with the latter.[65] This decision drew condemnation from approximately fifty thousand diligent Brahmins in Pune, leading to protests such as fasting at Ramashastri's residence.

Thus, Ramashastri Prabhune demonstrated a selfless, wise, learned, tolerant, and balanced personality in his role as a judge in the Pune Panchayat. Such attributes contributed to the significance and reverence attributed to the Pune Peshwa Panchayat.

Balshastri Dixit Tokekar assumed the role of the last justice during the Peshwa era, following the transfer of Peshwa's responsibilities to Dus-Ya Bajirao.[66] The primary concern that arose between Dus-Ya Bajirao and external opponents revolved around the elimination of potential threats and challenges from previous administrators and

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[63] Gajanan Waikar, *Nyayamurti*, Suras Prakashan, Solapur, 1981, p. 117.

[64] *Ramshastri Prabhune Charitra Va Patre*, p. 18.

[65] Gune, *Judicial System of the Maratha*, p. 340.

[66] Vishnu Vasudev Athalye, *Athalye Gharanyacha Itihas*, Khanda-1, Seetabai Karandikar, 1948, p. 81.

external adversaries. Dus-Ya Bajirao's opulent lifestyle prevented any significant influence within the administration. Balshastri Dixit Tokekar was not exempt from this situation. However, compared to other justices, his role exhibited a more cooperative and friendly approach. An extract highlights this aspect:

> *On a weekly basis, Shreemati follows a routine that involves early morning cleansing, awaiting the arrival of Anayaba and Naroba. After instructing the prompt delivery of funds to the pandits and summoning the Chobdars to convene and bring the members of the Sardar Mandal for discussions, Shreemati proceeds to take a bath and visit the temple, seeking blessings from Balshastri Tokekar, Ramchandra Gosavi, and Bapu Kavdikar. These visits include regular donations, culminating in their arrival at the Diwankhana.*[67] *Balshastri Dixit Tokekar's role is not described as a drawback but rather that of a cooperative ally to the justices. This is evident in the following passage: "The Vedashastra-scholar, Rajashri Balshastri Dixit Tokekar, familiarly known as Huzur Vai, revealed that many Brahmins from different places visit the Godavari River daily for purification.*[68]

Among the four justices serving in the Peshwa's court, Ramshastri Prabhune stood out as a talented and influential figure. The preceding three justices held relatively symbolic roles, with their influence not widely recognized within the Peshwa's council. The total number of justices included one prominent officer representing Pune in the Peshwa's council.

**Rajamandal Sabha and Member**

Following Chhatrapati Shahu Maharaj's bestowal of the Peshwa attire, Balaji Vishwanath Bhat established the Maratha Rajamandal to provide a stable position for Shahu Maharaj. This Maratha Rajamandal comprised influential chiefs, including Dabhade, Gaikwad, Bhosale (Nagpur), Shinde, Holkar, Bundel, Pratinidhi, Vinchurkar, Patwardhan, and Nimbalkar. During Shahu's era, the Maratha Rajamandal assumed a role reminiscent of the eight ministers during Shivaji's time, leading M.G. Ranade to

[67] *Senapati Dabhade Daftar*, Part-1, p. 81.

[68] Ibid.

suggest that the Maratha Rajamandal had now taken the place of the former eight ministers. The members of the Maratha Rajamandal held significant positions within the Central Panchayat,[69] actively participating in its activities when necessary. While there were no specific rules regarding the active involvement of senior Maratha Rajamandal members in the Central Panchayat, their presence was frequently mentioned during the preparation of election documents.[70] This highlighted their attendance during the hearings of specific benches, thereby establishing their participation.

Consequently, the connection between the Central Panchayat in the Peshwa's administration and the contemporary Maratha Rajamandal has been elucidated. When considering the centralization or restructuring of the Peshwa's administration, it becomes evident that the Central Panchayat, with Satara as the Chhatrapati, the Peshwa in Pune, and the involvement of Maratha Rajamandal members, held significant importance.

**Local Panchayats**

During the Peshwa era, alongside the main Panchayat system, another significant type of Panchayat existed, known as the Local Panchayats. These Local Panchayats operated at different levels, including regional, district, taluka, and village levels, and were entrusted with specific rights and responsibilities related to dispensing justice.[71] Under the local level of Panchayats, there were –

**Sarasubha Panchayat**

The Sarasubha Panchayat referred to the regional Panchayat and played a prominent role within the Peshwa's domain. Five major regions, known as Prants, existed during this era.[72] These five Prants were:

- Gujarat = Dabhade
- Khandesh = Peshwa
- Konkan = Aangre

[69] M.G. Ranade, *Marathyanchya Sattescha Utkarsha*, Maharashtra Rajya Sahitya va Sanskruti Mandal, Mumbai, 1964, p. 109.

[70] Gune, *Judicial System of the Maratha*, p. 296.

[71] *Ramshastri Prabhune Charitra Va Patre*, p. 71.

[72] Khare, *Nana Fadnavisanche Charitra*, p. 160.

- Karnataka = Fatesingh Bhosale
- Nira to Godavari region = Nimbalkar

Additionally, regions such as Bundelkhand, Indore, and Gwalior from central India were included in the Maratha region, leading to the formation of several new Prants. The appointed Sarsubhedars, who served as regional administrators, were responsible for overseeing these Prants and were granted the authority of Mutalaki Shikka. Mutalaki Shikka referred to the power of governance and involved assigning exclusive rights and jurisdiction to designated officers, known as Nemite or Namjads, in specific divisions or departments within the state. A Special Appointed Officer, known as the Authorized Officer, was appointed to oversee their functions. The conferment of Mutalaki Shikka by Chhatrapati Shahu Maharaj was based on his own judgment or the capabilities of the officials. The officer holding the Mutalaki Shikka assumed the role of chief in their respective Prant, overseeing administrative responsibilities and exercising jurisdiction over both civil administration (Diwani) and military administration (Faujdari). Through the Mutalaki Shikka-based Panchayats, the authorized officer ensured justice within the contemporary judiciary. [73]

Disputes concerning the Subedar's court were resolved through arbitration by the Sarsubhedar, with the assistance of the local Panchayat. An important document from 1759 sheds light on the role of the Sarsubhedar and the financial transactions of the Subedar's office.

> *In this document, Ramaji Mahadev, serving as Sarsubhedar, identified discrepancies in the accounts and expenses related to the pilgrimage site of Kailasvasi Tirth. He raised the issue, demanding a proper audit. As a result, a Panchayat consisting of Baba Pralhad, Ramaji Ballal Bhat, Mahadev Chandorkar, Vasudev, and Balvantrao Fadanis, with Harikrishna as the head, was convened to investigate the matter. The Panchayat examined the documents and found evidence of financial irregularities by Harikrishna Bivalkar.*[74]

[73] *Senapati Dabhade Daftar*, Part-1, p. 197.

[74] N.G. Chapekar, *Peshwaichya Savalit*, Arya Sanskriti Press, Pune, 1937, p. 109.

The inquiry initiated by Sarsubhedar Trimbak Vinayak into the actions of Subedar Harikrishna Bivalkar and his financial officer is evident from this account. The Panchayat, comprising six members, was summoned to verify the documents and establish the involvement of Harikrishna Bivalkar. Disputes between the Sarsubhedar and his administrative officer were resolved through the Sarsubha Panchayat. This Panchayat played a crucial role in mediating disputes, conducting re-examinations, and facilitating judicial proceedings involving the Sarsubhedar and his officials.

**Pargana Panchayat**

During the Peshwa era, the administrative unit known as a district was referred to as a Pargana or Subha. The highest-ranking official in the Pargana was called the Subedar. However, under the rule of Nana Fadnavis (1756-1800 AD), the appointment of Subedars was abolished, and the positions were instead granted to appointed Mamlatdars, who served as revenue officers.[75] The Mamlatdars held authority over the Pargana Panchayat for a duration of one year, assuming the role of its chief. They were entrusted with the responsibility of handling cases related to revenue and law enforcement within the Pargana, encompassing both civil and criminal matters. To assist them in their duties, they relied on the Deshmukh, an officer within the Pargana.[76]

The responsibilities of the Mamlatdar in the Pargana Panchayat are exemplified in the following excerpt:

> *Vedamurti Vaijanath Bhat Bhagwat's house has been targeted by thieves multiple times recently. To apprehend these thieves, Aparajiram Mamlatdar and Gopalji Yewle have received orders to proceed to the village of Nandgiri with the Pant's representative. While dealing with thieves within your district through government revenue collections and investigations, if you become aware of their whereabouts in your jurisdiction, promptly inform the relevant Pargana or government authorities and ensure their apprehension. Once they are in custody, hand them over to the government for further action.*

[75] Khare, *Nana Fadnavisanche Charitra*, p. 160.

[76] *Peshwa Daftar*, Volume 45, p. 140.

*Additionally, you should remain vigilant regarding other suspicious activities in your area and report them accordingly.*[77]

The Mamlatdar of a Pargana held the responsibility of administering justice in cases pertaining to theft and criminal activities.[78] They also executed orders issued by the Peshwa Panchayat in Pune, implemented decisions made by caste representatives in the Peshwa Panchayat regarding land disputes, and fulfilled other tasks assigned by the Taluka or Pargana Panchayat. This included capturing fugitives and facilitating re-trials for cases transferred from the Mahal or Taluka Panchayat.

**Mahal Panchayat**

During the Peshwa era, the administrative division known as Mahal represented a taluka in modern terms. The Kamavisadar, serving as the head of the Mahal, held the authority to adjudicate civil and criminal disputes within their jurisdiction, assisted by the Mahal Panchayat. The Kamavisadar possessed the power to settle civil cases with a value of up to 300 rupees and impose fines of up to 10 rupees for criminal cases occurring within their territory.[79]

The responsibility of implementing and enforcing the decisions of the Mahal Panchayat rested with the Peshwa administration. In 1800, when addressing matters concerning the practices of the nomadic and Lingayat communities, the Peshwas communicated their decisions to each Mahal, emphasizing strict adherence to the instructions provided.[80] Furthermore, it was explicitly stated that if any Kamavisadar displayed favouritism or engaged in inappropriate conduct while delivering judgments, and such actions were brought to the attention of the Peshwa's court, severe consequences would be meted out to them.

**Gram Panchayat**

During the Peshwa era, the Gram Panchayat held a significant position as the final tier in the hierarchical system of Panchayats. It functioned as the village council and was

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[77] *Dusare Bajirao Peshwe Yanche Rojnishi*, p. 222.

[78] *Ibid.*

[79] Y.M. Kale, *Nagpurkar Bhoslyancha Bakhar*, Vidarbha Sanshodhan Mandal, Nagpur, 1979, p. 334.

[80] *Dusare Bajirao Peshwe Yanche Rojnishi*, p. 263.

led by the Mokasadar or Patil. Assisted by influential individuals such as the Kulakarni, Chaughule, and Mahar, the Patil played a pivotal role in resolving disputes and maintaining law and order within the village. When a complaint was lodged by villagers and brought before the Patil, the initial approach involved seeking a resolution through negotiation and mutual settlement between the parties involved. In cases where this approach proved unsuccessful, the matter was referred to the Panchayat for a fair trial. The Patil possessed the authority to select Panchayat members, with the provision for replacement if objections or complaints were raised against a particular member.[81]

The jurisdiction of the Gram Panchayat encompassed a wide range of matters related to domestic disputes, economic issues, theft, violence, and criminal activities within the village. The Patil played a significant role in facilitating the resolution of such matters, with the assistance of the elected members of the Panchayat. References to the Peshwa-era judicial system, as cited in the works of V. K. Bhawe and Mr Chaplin, indicate that Patil's authority in addressing violence, theft, and trespassing was not clearly defined. The punishment administered by the Patil for educational purposes was typically not severe, often involving mild measures such as a slap or a few days of confinement rather than extended periods of imprisonment. In cases requiring more substantial intervention, the Patil would refer the matter to the Mamlatdar for further action.[82] This implies that the Patil possessed the power to impose significant or strict punishments, as well as deliver stern reprimands when deemed necessary, although there was no provision for providing higher education.

The Gram Panchayat served as the ultimate authority in the Peshwa-era Panchayat system, particularly in rural areas. If a dispute could not be resolved through the Panchayat's intervention, a hierarchical sequence of steps was followed. However, this process had certain limitations. An instance from 1769 involving a dispute over the collection of a fixed sum of money as tax in Nandurbar and Sultanpur Parganas exemplified this. An objection was raised against Raghunath Gambaji Gavade and Khandbhat Bin Tryambakbhat Gavade, leading to a contentious debate before Ramashastri Prabhune.[83] The matter subsequently proceeded from the local-level

[81] Khare, *Nana Fadnavisanche Charitra*, p. 156.

[82] Bhave, *Peshwekalin Maharashtra*, p. 348.

[83] *Ramshastri Prabhune Charitra Va Patre*, p. 75.

Panchayat to the Satara Panchayat, which functioned as the highest authority akin to a modern-day Supreme Court.

**Jaat Panchayat**

During the Peshwa era, the Jaat Panchayat played a crucial role in the social structure, reflecting the traditional and orthodox beliefs prevalent in Peshwa society. Society adhered to the ideology of preserving the old ways and avoiding the adoption of anything new. Religion and caste held significant importance in the Maratha kingdom, and the caste system during this period displayed distinctive characteristics. P.A. Gavali describes the hierarchy of the caste system, consisting of the four Varnas (Brahmin, Kshatriya, Vaishya, and Shudra), with numerous sub-castes emerging within these major castes.[84] The caste system during the Peshwa era involved distinct occupations for each caste and sub-caste, although some castes began embracing occupations traditionally associated with other castes, as dictated by religious scriptures and traditions. Notably, Brahmins started adopting practices of professions traditionally held by Kshatriyas and Vaishyas, subsequently influencing other castes to follow suit. This phenomenon gave rise to disputes, rivalries, intermarriage, intermingling of social practices, and regional conflicts among different castes and sub-castes within society. In cases of conflicts between two distinct castes, the resolution was entrusted to the respective Jaat Panchayats,[85] with the Mehetre family being recognized as prominent figures in such Panchayats. The decisions rendered by Jaat Panchayats held considerable authority and were seldom overturned by the government. The final verdicts of the Jaat Panchayat carried significant weight, and governmental intervention in such matters was infrequent.[86] The provided excerpt, dating back to approximately 1785, describes the existence of Rajput families belonging to the foreign Rajput caste within the author's village. These families adhered to a Jaat Panchayat system, wherein disputes between parties were resolved through fair and equitable proceedings.

During the Peshwa era, caste panchayats were adept at upholding the purity of their respective castes. To provide insight into the mindset of these caste panchayats, a

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[84] P.A. Gawali, *Saranjamsahi*, Priyadarshi Prakashan, Kolhapur, 1991, p. 25.

[85] Kulkarni*, Peshawaitil Nyayadan*, p. 154; *Peshwekalin Samajik va Arthik Patravyavahar*, *1722-1854*, p. 161.

[86] *Ramshastri Prabhune Charitra Va Patre*, p. 112.

document was presented by the 'Maratha Caste Panchayat' in Satara City in 1788. The document reads as follows –

> *Esteemed Rajashri Madhavrao Ramchandra Gosavi, adorned with uninterrupted prosperity, we extend our greetings to the esteemed Samasta Sarkar Sudhamarashtra Jnyat Muga Shahunagar Ramram. We commend your wise decision not to arrange a marriage for your daughter outside our caste. It is noteworthy that, until now, no member of our caste has ventured to bestow their daughter's hand in marriage upon a wealthy family. While it is true that only narrow-minded individuals limit their matrimonial alliances within the confines of their own caste, we implore you, as a distinguished member of our prominent caste, to rise above such narrow perspectives and consider the greater welfare of the entire community. The authorities governing our caste rightfully belong exclusively to our own caste and no other. Those who deviate from this prescribed path shall face severe repercussions. It is important to acknowledge that no other caste has provided employment opportunities that encompass the entirety of our community. Engaging in such pursuits solely for the sake of material wealth is deemed inappropriate. We urge you to refrain from adopting a narrow viewpoint and to convey a stern message to those who contemplate leaving the caste, emphasizing the severe consequences they shall face. It is essential to recognize that abandoning our ancestral customs would not only be a transgression on your part but also a sin committed by the entire caste.*[87]

Through the aforementioned document, the Maratha Caste Panchayat endeavours to dissuade Madhavrao Ramchandra from entertaining a matrimonial proposal for his daughter from a wealthy family outside their caste. The language employed in the document carries significant persuasive weight. In 1830, Maharaja Pratapsinh introduced a set of regulations governing the conduct of the Maratha community, which were implemented through the Maratha Caste Panchayat. The code of conduct,

[87] Kulkarni, *Peshawaitil Nyayadan*, p. 99.

formulated by Maharaja Pratapsinh, lists the Saradars belonging to the Bhosale, Shirke, Mahadik, Gujjar, and Mohite families, who hold positions of authority within the 42 castes of the Maratha community.[88]

The Maratha caste, inclusive of its sub-groups, operated under the purview of the Jaat Panchayat, while the Brahmin community had its own distinct council known as the Brahmasabha. Functioning with a similar structure and purpose as the Jaat Panchayat, the Brahmasabha served as the overarching governing body for all Brahmasabhas across the state during the Peshwa rule. The Pune-based Brahmasabha issued mandates and instructions to the various levels of Brahmasabhas within the kingdom, with the aim of upholding the well-being and sanctity of the Brahmin community. Of notable significance are two specific directives issued by Bajirao Peshwa. One decree prohibits Brahmins from engaging in the practice of selling their daughters or keeping unmarried girls beyond the appropriate age for marriage. It is imperative that you strictly adhere to this directive, refraining from participating in the sale of Brahmin girls or prolonging the unmarried status of girls beyond the prescribed age. Non-compliance with this order will entail severe repercussions.[89] Additionally, it was established as a customary norm within the Brahmin community that no girl should be married without settling any outstanding debts or liabilities associated with her. In this regard, you are instructed to notify the local religious authority, Mr Joshi, who represents Brahmins, Deshmukhs, Deshpandes, Khot, Kulkarni, and Mahajans in your taluka. Mr Joshi will ensure that any outstanding debts or liabilities of the girl are duly resolved prior to the marriage ceremony. The marriage shall be deemed valid only upon approval from both the groom's and bride's sides, with appropriate government oversight. Consequently, any misconduct or non-compliance should be promptly reported to the bride's side, prompting the initiation of suitable legal measures.[90]

Bajirao Peshwa issued these mandates to all Brahmin Sabhas throughout the kingdom to safeguard the well-being and integrity of the Brahmin community. It was the responsibility of the Brahmasabha to take decisive action against Brahmins involved in corrupt practices, adultery, murder, and other offences, including imposing punishments and excommunication. Brahmins who expressed remorse for their

[88] *Dusare Bajirao Peshwe Yanche Rojnishi*, p. 259.

[89] Ibid., p. 259.

[90] Ibid.

transgressions were afforded the opportunity to seek forgiveness through prescribed acts of penance, after which they were reinstated within the community. These instances are exemplified by a case where Brahmins who committed the grave sin of Brahminicide and were rejected by all were publicly denounced and isolated until they underwent the required penitential rituals to prevent the recurrence of such acts. The Brahmin Sabha issued and adhered to this order.[91]

Numerous documents have been published, chronicling these actions and providing extensive details regarding the misconduct of Brahmin individuals, the subsequent investigations conducted by the Brahmasabha, and the corrective measures undertaken.

In the context of Maharashtra, both the Maratha and Brahmin communities occupied prominent positions, with even upper-caste groups like the Atharapgad Jatpanti acknowledging the presence of caste panchayats. However, the Mahar community, which held significance as one of the major communities in Maharashtra, encountered discrimination in matters of marriage. The Peshwa-era documents include several instances wherein the caste panchayat of the Mahar community raised objections to the marriage of a Brahmin named Joshi in the village of Ghi-han.

Another noteworthy document emerges from the perspective of the Mahar caste council. In 1761, Sindhnak Mahar from the village of Nagave in Goregaon Pratha Rajpuri entered into marriage with Sonnak Mahar, belonging to the Kapadkar sub-caste, and the couple settled in Pratapgad. Subsequently, Sindhnak Mahar sought support from his caste council. Following due proceedings, the Mahar caste council, in conjunction with the testimonies of Sindhnak Mahar and Sonnak Mahar, duly elected Sindhnak as their representative. The document that provides further details reads as follows –

> *I will share four stories highlighting the collaborative efforts of Sindhnak and Sonnak in uplifting their community. Sindhnak diligently adhered to the principles guiding his actions. Due to unforeseen circumstances, he had to serve as a household servant in Nagpur for a significant period of time before finding alternative employment. The matter at hand remained unresolved during this period, causing adverse consequences even for his*

[91] *Dusare Bajirao Peshwe Yanche Rojnishi*, Volume 7, p. 527.

*daughters. However, it is essential to prioritize the well-being of spouses and ensure the continuity of their work. Sonnak, addressing the issue, filed a formal complaint against Sindhnak, sending a letter to Sonnak. The Mahar caste council, in accordance with the directives of their esteemed religious leader, delivered justice to all parties involved, affirming their unwavering commitment to eradicating any form of injustice. The council included members of the Gajiwale community, whose opinions were considered in the pursuit of justice. Measures have been put in place to prevent the recurrence of such incidents in the future.*[92]

In 1768, the Batki lineage residing in Shahaapur, Pune, encountered opposition from the Kosti caste council, which aimed to assimilate them into their own caste council. Falsely asserting that the Batki lineage should not maintain a distinct identity, the Kosti caste council issued an order demanding their merger with the Kosti caste.[93]

In 1772, a woman named Mohinhabi from the Nhavi community in the village of Asavli gave her daughter the name 'Agrakunbiya,' which belonged to a lower caste. Consequently, she faced complete ostracization by the community. Seeking recourse, Mohinhabi turned to the Nhavi Jaat Panchayat (community council) for support. The Jaat Panchayat rendered a decision stating that, due to her marriage into a different caste, she must disown her daughter and sever all ties with her.[94] This ruling was made with the consent of the community.

During the Peshwa period, the Jaat Panchayat emerged as a vital institution for the resolution of caste-related matters, as documented in historical records. These Panchayats continued to function alongside the existence of specific castes, playing a significant role in the social fabric of the time. The historical documents from the Peshwa era provide substantial evidence of Jaat Panchayats serving various castes, including Brahmins, Marathas, Mahars, Kostis, Kumbhars, Sutars, Nhavis, Malis, Pardeshis, Rajputs, and others.

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[92] *Peshwekalin Samajik va Arthik Patravyavahar*.

[93] *Dusare Bajirao Peshwe Yanche Rojnishi*, Volume 7, p. 763.

[94] Ibid.

During the post-Peshwa period, certain Jaat Panchayats have persisted and remained active in contemporary times, despite the disbandment of the Peshwa administration in 1818. These Jaat Panchayats have been entrusted with the exclusive authority to pass judgments specifically related to various castes, including Gopal, Paradhi, Masanjogi, Nandiwale, Vaiduwale, Dakkalwar, Kolhati, Rayandar, Gosavi, and others. Notably, these wandering castes, dispersed across different regions of Maharashtra, come together annually during religious pilgrimages, such as the Khandoba pilgrimage held in Malegaon, Taluka Loha, District Nanded in January and the Kanhopatra pilgrimage in Pancham, Ahmednagar District in March. During these gatherings, the Jaat Panchayats of these wandering castes assume a position of considerable importance.[95] Notably, individuals belonging to these castes rely solely on the decisions rendered by these Jaat Panchayats and do not seek recourse through higher courts for appeals.

The Jaat Panchayat emerged as a highly effective institution for the resolution of caste-related matters, as attested by the historical records examined. Throughout the Peshwa period, the functioning of Jaat Panchayats was evident alongside the existence of distinct castes. The available historical documentation offers substantial evidence of Jaat Panchayats catering to various castes, such as Brahmins, Marathas, Mahars, Kostis, Kumbhars, Sutars, Nhavis, Malis, Pardeshis, Rajputs, and others. Remarkably, the persistence of these caste-specific Panchayats from the Peshwa era continues to be observable within specific communities in contemporary times.

**Structure of Panchayats**

The Panchayat system, originating from Hindu philosophical principles where five deities symbolize the council, assumes various aspects in the practice of the Peshwa-era Panchayat system. An important aspect pertains to the number of members constituting the Panchayat. During the Peshwa era, it was customary for the Panchayat to consist of more than five members, with a minimum requirement of five[96] for decision-making purposes. The precise number of members in the Panchayat varied depending on the nature of the dispute under consideration. A notable example of an extensive Panchayat assembly is documented in 1789 in the villages of Nandgaon and Phatyapur in the Satara taluka, where a Panchayat comprising 205 members, including

[95] Mande, *Gavagadyabaher*, p. 281.

[96] Khare, *Nana Fadnavisanche Charitra*, p. 156.

122 Hindus, convened.[97] Nevertheless, the exact composition of the Peshwa-era Panchayats was not fixed but rather contingent on the specific circumstances of the dispute at hand.

While the Panchayat system originated from Hindu beliefs, historical evidence reveals the active involvement of Muslims in the Peshwa-era Panchayats. When the testimony of a Muslim witness was required, they were expected to take an oath on the holy Quran prior to providing their testimony. For instance, in a dispute between the Kulkarni and Vatanakar families in Kalyan Bhivandi in 1731, explicit reference is made to the oath taken by Muslim witnesses, highlighting that Hindu witnesses took an oath according to Hindu Dharma while Muslim witnesses took an oath on the Quran. This observation indicates the inclusive participation of Muslims within the Panchayat system.

In light of the involvement of Muslims in the Panchayat system, another noteworthy document comes to attention. In 1742, during a dispute in Mauje Kamjtarf Karjat, two Muslim individuals, Baavakhan bin Ismailkhan Gori and Poladsha bin Noorsha Saeed, were involved. In a significant step toward integrating these Muslims into the process, the Panchayat of Maval sent them to a nearby mosque in Ranjan Gaon, near Junnar, for a divine ceremony. This gesture emphasizes the recognition and accommodation of diverse religious practices within the framework of the Panchayat system during the Peshwa era.

A significant event took place in the spiritual domain, celebrated by both Hindus and Muslims. During this sacred occasion, both religious communities observe the lighting of divine lamps for a duration of fifteen holy days.[98] The longevity of the lit lamp determines the authenticity of one's devotion. If the lamp is quickly extinguished, it is regarded as false, whereas a lamp that remains illuminated for the entire fifteen-day period is considered true.[99] In the year 1742, in the village of Ranjan Gaon, an incident occurred wherein the divine lamp of Vaat Divya proved to be true as Baba Khan bin Ismail Khan Gari's lamp was found to be false, while Polad Shah bin Nur Shah Saeed's lamp was confirmed to be true.

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[97] B. B. Raje Ghorpade, *Ghorpade Gharanyacha Itihas*, Maharashtra Rajya Sahitya ani Sanskruti Mandal, Mumbai, 1989, p. 119.

[98] *Marathyanchya Itihasachi Sadhane*, Volume 2, p. 39.

[99] Mavji and Parsnis, *Vatanpatre, Nivadpatre*, etc., p. 40.

The inclusion of multiple forms of justice within the Muslim community holds significant importance. Even among those who oppose the Hindu ideology, the divine form recognized within the Panchayat system receives acceptance within the jurisdiction of the Panchayat. The participation of Muslims in the Panchayat system broadens its scope and becomes evident, showcasing its inclusive nature.

The Peshwa-era Panchayat system possessed broad authority, encompassing judicial and military matters. As noted by Shri. V.K. Bhave, in Maharashtra, during the Peshwa era, the Panchayat system served to resolve various types of cases. It emerged that disputes encompassing theft, robbery, murder, violence, kidnapping, financial matters, family and property rights, as well as boundary issues were effectively addressed through the Peshwa-era Panchayat.[100]

The administrative structure during the Peshwa era was designed to align with the level of the Panchayat. Each individual's tasks, domain, and rights were clearly defined, and interference in another's domain was prohibited. The Peshwa-era Panchayat functioned autonomously, providing its services to the government without charge. The Panch Mandali, consisting of wise and knowledgeable individuals, played a pivotal role, ensuring that decisions were made through consensus between both parties. Consequently, the decisions of the Panchayat were perceived as divine justice and were upheld accordingly. Notably, during the Peshwa period, the concept of Panchamukhi Parmeshwar (the five-faced deity) gained popularity.

[100] Bhave, *Peshwekalin Maharashtra*, p. 382.

# CHAPTER 3

# UNRAVELLING THE MARATHA JUDICIAL SYSTEM: NORMS, FUNCTIONALITY AND PROCEDURAL INSIGHTS OF THE PANCHAYAT

The Panchayat system held significant prominence during the Peshwa period, particularly in the realms of politics, society, and religion. The decisions rendered by the Panchayat carried substantial weight, and they were regarded as pivotal in the societal fabric of that era. The notion of a "five-faced God" was widely embraced, leading both plaintiffs and defendants to perceive the judgments of the Panchayat as divine decrees. While the Panchayat functioned as a justice system, it garnered immense respect from the society of that time, especially the Caste Panchayat, which was viewed as the sole authority for "punishment." This chapter explores the synergistic relationship between the working methodology of the Panchayat and the youth of the Maratha period.

## Plaintiff's Complaint

The individual who initiates the legal proceedings and seeks redress from the judicial authorities is referred to as the plaintiff. In their complaint, the plaintiff provides detailed information regarding the nature of the dispute, the underlying reasons, and the historical context of the conflict. It is the plaintiff's responsibility to personally present their complaint to the Judicial Officer of the relevant jurisdiction based on their place of residence. For instance, if the plaintiff resides in a village, they would approach the Patil or Mokadama, while a resident of a smaller taluk would approach the Kamavisdar. However, there was no strict requirement for the complaint to be filed with the officer of the plaintiff's place of residence.[1] In certain cases, agravadis could directly approach the taluka or district officer, known as a badi, with their complaint. The process of arbitration, wherein government officials such as Patil, Kamavisdar, and Maweledar attempted to mediate or persuade the parties involved, was not restricted to a specific set of claims. There was no prescribed rule dictating the initial filing of a complaint, and the plaintiff had the freedom to choose the appropriate forum. If the officer

[1] V.K. Bhave, *Peshwekalin Maharashtra*, Varada Prakashan Pvt. Ltd., 2010, p. 376.

determined that mediation was unsuccessful in resolving the dispute, a Panchayat would be convened to adjudicate the matter.

**Summoning the Defendant**

The individual against whom the plaintiff lodged a complaint was referred to as the defendant or *Paschamvadi*. Upon receiving the appellant's complaint, the relevant officer would promptly dispatch a letter to summon the respondent, employing the services of a constable if the defendant resided outside the village. The expenses incurred by the constable during the journey were to be reimbursed by the defendant, known as Masala. The *Taqidchitti*, accompanying the constable, contained a formal language of summons. The fee for the summons amounted to four rupees, which could be paid in instalments.[2] In the event that the defendant was found innocent in the judgment, the amount taken from him as *Isala* would be returned.[3]

Following the submission of the complaint by the appellant, the concerned officer would summon the respondent to present his side of the story. This process often created a sense of hesitation among defendants in presenting their positions within the judicial system of that time. If the defendant failed to appear even after the constable was dispatched by the concerned officer, his property would be seized. However, such circumstances rarely occurred. After both the plaintiff and the defendant appeared before the government official, efforts were made to settle the case through mediation. If mediation proved unsuccessful, the judgment would be rendered through the Panchayat.

**Formation of Panchayat**

When the plaintiff and defendant approached government officials at the village, taluka, district, or provincial level to resolve their disputes, the officials would call for a Panchayat to address the matter. It was mandatory for a Panchayat to consist of a minimum of five Panchas.[4] While there was a fixed minimum number of Panchas, there was no specific rule regarding the maximum number. The selection of Panchas was based on the nature of the dispute, and although government officials were responsible

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[2] *Peshwekalin Samajik va Arthik Patravyavahar*, *1722-1854*, ed. R.V. Oturkar, B.I.S.M., Pune, 1950, p. 51.

[3] *Selections from the Peshwa Daftar*, Vol. 5, ed. G. S. Sardesai, Government Central Press, Bombay, 1934-40, p. 54.

[4] Vasudevshastri Khare, *Nana Fadnavisanche Charitra*, Meraj, 1927, p. 156.

for choosing the Panchas, they could be replaced if either party disagreed with the selection.[5] Panchayats were expected to consist of knowledgeable, experienced, impartial judges who were well-versed in theology and possessed virtuous qualities. A passage highlighting the government's expectations from the Panchas in the Panchayat holds significant importance. It emphasized that the Panchayat members should be aware that both the plaintiff and defendant had approached them with the expectation of obtaining justice based on their integrity and sense of shame. They were to impartially deliver justice in the case and avoid any form of friendship or favouritism under any circumstances. The Karil Clerk's role was limited to recording necessary information and refraining from expressing any opinions during the Panchayat. This document provides insight into the government's expectations from the Panchayat members. Panchayat members serving in Peshwa Panchayats did not receive any financial compensation from the government. Those who were truthful in the dispute were encouraged to take what they were rightfully entitled to and willingly offer their share while forcefully demanding anything that was considered against custom.[6]

In this manner, government officials such as Patils, Kamavisdars, Maweledars, and Sarsubhedars would establish Panchayats with the consent of the plaintiffs and defendants. Once the Panchayat was formed, its proceedings would commence promptly.

**Place of Panchayat**

Once the decision was made to convene a Panchayat to resolve a dispute, the Panchayat proceedings would take place in a public location. These public places were typically associated with religious or traditional significance, such as temples, sites of worship, or locations with cultural importance, such as under a peepal tree. The majority of Panchayats were held in village temples, reflecting their central role in community affairs. There are instances where Panchayats were also conducted in places of faith for Muslims, such as Dargahs or Eidgahs.[7]

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[5] Khare, *Nana Fadnavisanche Charitra*, p. 156.

[6] N.G. Chapekar, *Peshwaichya Savalit*, Arya Sanskriti Press, Pune, 1937, p. 109.

[7] V. T. Gune, *The Judicial System of The Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Poona, 1953, p. 292.

Occasionally, Panchayats were convened in the houses of prominent village officials. In a specific case in 1743 involving a financial dispute between Ravji Naik Pundalik and Tukaidas Purushottamdas Murali, a Panchayat was held at the residence of Dajiba Chiplonkar. The relevant passage states, "In the year 1743, Rakkam Dekawale Laghu has written two names about Radkarja. In that amount, the defendant refused to pay Laghu, and it was not original, and our amount fell to the house of Chiplonkar in the Panchayat of Laghu."[8]

During the Peshwa period, panchayats were convened for the purpose of dispensing justice. These gatherings took place in temples or dargahs, which were considered public spaces. In exceptional cases, they were also held in the residences of influential members of the village community. Due to the prevailing societal mindset characterized by a strong inclination towards religious beliefs, rituals, and spiritual contemplation, the temple commanded unwavering faith from all individuals. Consequently, there was a unanimous consensus among individuals that it was imperative to refrain from engaging in falsehoods within the sacred confines of the temple or its immediate surroundings. Hence, it was deemed entirely suitable to assemble a panchayat within the temple premises to administer justice. In instances where a panchayat was conducted at a location other than the designated temple, dargah, or revered idols' residence, any judgment rendered during such proceedings was deemed invalid and without legal effect due to the failure to convene the Panchayat at the appropriate venue. A Panchayat was convened, and a verdict was rendered concerning Mala. Subsequently, the Panchayat was not convened at the designated location, resulting in the nullification of the verdict rendered by said Panchayat.

In instances where a panchayat is convened at a location other than the designated customary venue, the verdict rendered by the respective Panchayat is invalidated on the grounds of its illegitimacy. The Peshwaite panchayats were conducted in various locations, including temples, dargahs, public sacred spaces, and occasionally in the residences of prominent individuals within the village.

**Resignation of Members from Panchayat**

Upon arriving at the Panchayat for the purpose of resolving any form of dispute, it was customary for the Panchayat to inquire of both the plaintiffs and defendants whether

[8] Chapekar, *Peshwaichya Savalit*, p. 109.

they concurred with the proposed judgment. If it is acceptable, individuals may compose their own letters of approval. Subsequently, both the plaintiff and the defendant expressed their agreement with the verdict rendered by the Panchayat. This document, commonly referred to as a resignation or consent letter, served as a formal letter of approval. The significance of the resignation submitted by the Panchayat on behalf of the plaintiff defendant was as follows.

Hence, the composition of the resignation letter was approached with the intention of adhering to the decision of the Panchayat or, alternatively, abiding strictly by the Panchayat's verdict.

**Expropriation of Disputed Lands**

During the Peshwa era, when land-related disputes were brought before the Panchayat for resolution, the Panchayat would initially instruct the government officials (Patil, Kamavisdar, Maweledar) to seize the contested land. Subsequently, the governmental authorities would promptly appropriate the contested territory. The document containing the judgement clearly indicates that Prarashurai Ramchandra Samsamaninat submitted a government-issued charter that transferred the confiscated property of Dasarathrao Timaji Deshpande to Mahipatrao Krishna Vaj. The item has been removed and communicated to the individuals concerned. Nevertheless, he proposed the expropriation of Bhimrao Venkatesh's property and its conversion into a panchayat under the jurisdiction of Ubhavat.[9] During the period of 1797-98, a conflict emerged between the descendants of Dashartharao Timaji Deshpande and Bhimrao Venkatesh Deshpande over the territorial ownership of Deshpande. Both individuals arrived at the Peshwa Panchayat in Pune with the purpose of seeking a verdict. Subsequently, the Panchayat delegated the task of appropriating the contested Deshpande Watan to Parashuram Ramchandra, marking the first instance of such a transfer of responsibility. The acquisition of the aforementioned land occurred subsequent to the government's assumption of control over the Kajia Lagun Peshji Mansubi. It is imperative to consider another scholarly article that explores comparable subject matter. According to Mansubi's determination, Fadsha was identified as the wife of Bapujirao. Through their correspondence, it was ascertained that in the year Sun Sit Tisaivra, Pharaoh took

[9] *Dusare Bajirao Peshwe Yanche Rojnishi*, ed. B.P. Joshi, Deccan Vernacular Transliteration Society, Pune, 1908, p. 205.

control of the land. Consequently, it was proposed that the land previously occupied by Bapujirao should be relinquished to the government.[10] This document pertains to the land grant bestowed upon Patilki of Mauje Rihe and another village in the Pawan-Maval region in the year 1802 AD. The government seized the contested territory. Subsequently, Bapujirao bin Khanderao Shinde provided erroneous information to the relevant official, resulting in the lifting of the seizure. Upon being informed of the aforementioned circumstances, Peshwa Bajirao II delegated the responsibility of reclaiming the contested territory to Kasinai Sivaji. Consequently, the Peshwa Panchayat would seize the contested land in order to facilitate an unbiased process of adjudication, ultimately transferring ownership to the party that emerged successful in the adjudicatory proceedings.

Land-related cases are more prevalent among civil cases. During that period, the society exhibited a significant degree of patriotism. Shahu Maharaj, the Chhatrapati of Swarajya, affixed his signature to one of his Mahajars, dated 1781 AD, as 'Rajshree Shahuji Raje Bhosle Deshmukh Prant Bai'. Given the societal context of the time, wherein one's reputation was intricately tied to land ownership, individuals exhibited a willingness to risk everything in order to safeguard their land holdings. Hence, the tensions surrounding Vatana reached their peak. Furthermore, the act of confiscating land was widely regarded as an exceptionally degrading form of punishment. During the Peshwa period, the Panchayat effectively managed and resolved disputes pertaining to Vatana with great caution.

**Role of Witnesses**

During the Peshwa period, the Panchayat system relied significantly on the testimony of witnesses as a crucial component in the administration of justice. Individuals possessing verifiable expertise regarding the contentious matter were extended invitations to partake in the panchayat proceedings as witnesses. The purpose of the letter requesting the presence of witnesses before the Panchayat can be interpreted as follows: "The plaintiff has provided a statement regarding his testimony during the trial." At 10:00 AM, we commence the process of coding ourselves for the purpose of providing testimony. The request to write without limitations can be perceived as an

[10] *Peshwekalin Samajik va Arthik Patravyavahar*, *1722-1854,* p. 56.

inclination towards greediness.[11] A correspondence conveying this information was dispatched to all the individuals who provided testimony in the legal matter, bearing the signature of either Amina or a duly authorized representative of the government.[12] In the event that witnesses fail to appear despite repeated requests communicated through formal correspondence, the government issues an order compelling their attendance. This legislation mandated the witness's obligation to provide testimony in the Panchayat. In the event that the witness is required to travel in order to provide testimony, it is the responsibility of the government to cover all associated travel expenses.[13]

Upon the witness's arrival at the Panchayat to provide testimony, it was customary for him to undergo ritual purification. Prior to presenting his evidence, he was requested to cleanse himself by either utilizing the sacred water from the temple premises or, if feasible, the waters of the Krishna, Bhima, and Ganga (Godavari) rivers. The initial document pertaining to this matter stated that, when documenting the witnesses regarding the land's kajiya, individuals serving as katdandars should inscribe their khadas (witness papers) with the names of Devalai or Krishna, Bhima, Ganga, or their swans.[14] Following the ritualistic act of immersing oneself in the sacred water, the witness was required to take an oath in the presence of revered deities, paying homage to forty-two successive lineages of Kimba Brahmins. This oath bound the witness to refrain from uttering the truth or providing false testimony. The passage indicates that the witness occasionally had to make a solemn declaration on the sacred texts of their religious faith. In the context of Hinduism, individuals would invoke the sanctity of the oath of Shree Gnanadevi (Gnyaneshwari), while adherents of Islam would affirm their commitment by swearing upon the Quran.[15] Following the aforementioned swearing-in ceremony of the witnesses, the subsequent phase would involve the commencement of witness testimony.

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[11] Mavji and Parsanis, *Vatanpatre, Nivadpatre, etc.*, Pune, 1909, p. 56.

[12] Chapekar, *Peshwaichya Savalit*, p. 109.

[13] Mavji and Parsanis, *Vatanpatre, Nivadpatre, etc.*, p. 56.

[14] *Selections from the Peshwa Daftar*, Volume 45, p. 139.

[15] *Marathyanchya Itihaschin Sadhanen*, Volume 2, ed. V.K. Rajwade, Bharat Itihas Samsodhak Mandal, Pune, 1910, p. 39.

The testimonies of the witnesses were recorded in written format. In cases where the witness lacked literacy skills, a clerk was responsible for transcribing their testimony. The deposition of Nimbya Vald Ranu Dhor, who was engaged in the trade of bovine hide derived from a cow that had been slaughtered as part of the investigation into a bovine-related offence in the jurisdiction of Peshwaite Pune, was recorded. Due to Nimbya Vald Ranu Dhor's lack of literacy, an individual was tasked with transcribing his testimony.[16] After the illiterate witness's testimony was written down, it was read back to him in its entirety.

Hence, meticulous measures were implemented with regard to the testimonies provided by the witnesses. The original intention was for the Panchayat to administer severe punishments to any witness found guilty of providing false testimony. In order to ensure the integrity of the witness's statement, precautions were taken to prevent any alterations or repetitions of the phrase "I did not say that."[17] Hence, the Peshwa Panchayat demonstrated a strong awareness of the significance of witness testimony.

**Role of Standard Texts**

During the Peshwa era, the books from the Shiva period, such as *"Mitakshara"* authored by Vigyaneshwar, *"Danakamalakar"* authored by Kamalakar Bhatt, and *"Viyavamayuk"* authored by Neelkanth Shankar Bhatt, held significant authority. In addition to the aforementioned canonical texts, the judicial system of the Peshwas accorded distinctive significance to a book titled *"Nichran Sindhu."* The book titled *"Nirnaya Sindhu"* was authored by Kamalakar Bhatt, a learned scholar belonging to the Vishvamitra Gotria Brahmin Pandita lineage, during the approximate period of AD 1610. In his book, Kamalakar provides an extensive analysis of Hindu funeral rites, including the designated individual responsible for igniting the funeral pyre, methods for purifying impure objects, regulations pertaining to faith, inheritance rights, *vritta-vaiklya,* guidelines for fasting, as well as the practices of Mahlva, Udyapan, Diksha, and Ganesha. This discussion focuses on the significance of establishing ghat, *panchamahapatka,* and *muhurta,* as well as the concepts of auspiciousness and inauspiciousness. Additionally, the importance of charitable acts is also explored. [18]

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[16] *Ramshastri Prabhune Charitra Va Patre*, ed. Sadashiv Aṭhavale, Shrividya Prakashan, Pune, 1988, p. 52.

[17] Ibid., p. 51; Gune, *The Judicial System of The Marathas*, p. 306.

[18] S.N. Joshi, *Marathekalin Samaj Darshan*, Anant Vidya Griha Prakashan, Pune, 1960, p. 101.

Therefore, this book was acknowledged as the authoritative text on Peshwaite jurisprudence. The aforementioned book held significant importance in the context of the last rites. This can be observed in the subsequent excerpt. Rajshree Bapurao Deshpande is the subject of discussion. The phenomenon known as Kashakshakhi Yasi Devagya Jali is the subject of academic inquiry. It is recommended that the individual be accompanied by his spouse following the completion of the Tamam ritual. Additionally, it is customary to visit Bavi Cemetery and perform the Shilapujana Karma ritual before proceeding to enter the Chita. During that particular moment, an individual named Saheb Lokani, who was affiliated with the camp, arrived and proceeded to subdue Babi, subsequently escorting him to the aforementioned camp, Valadi. Masja subsequently summoned the Shravan Vdya Vditiyyas in front of the Shishta Brahmin and requested their assistance in purifying the Bayis and integrating them into the caste system. The Bavarun Dharmashastra books authored by Ninvasindhu, Smrityarthasara, Divakardyn, Narayana Bhatti, and others are of academic significance.[19] This particular case surfaced in the year 1782 CE.

During the Peshwa era, there was a notable dearth of textual resources elucidating the intricacies and interpretations of Dharma Shastra. There exists evidence suggesting that the Peshwas engaged in the production of additional copies of scriptures in order to address this particular inadequacy. During non-combat days, the Peshwa would engage in the resolution of civil and local disputes while on horseback. In this regard, the Peshwa would engage with theological texts, as well as consult with Shastris and Pandits. The inclusion of the texts of Vigyaneshwar and Naraybhatti is imperative in order to ensure fairness in the administration of justice to the Peshwas. The construction of the project was carried out in the year 1754 under the supervision of Shankarurkhawan, a renowned scholar in the field of Sanskrit.[20] A payment of 147 rupees was made to Shankarurkhawan for the completion of this task.

The Panchayat systems observed during the Peshwa period encompassed Mitakshara, Vyavamayuk, Danakamalakar, Nichikansindhu, Narayan Bhatti, Dinkardyot, and Smrityarthasara. The authoritative status of the interpretation of numerous Dharmashastras was widely acknowledged. The determination of civil and criminal

[19] S.N. Joshi, *Marathekalin Samaj Darshan*, Anant Vidya Griha Prakashan, Pune, 1960, p. 101.
[20] Bhave, *Peshwekalin Maharashtra*, p. 382.

cases was exclusively reliant on the aforementioned legal texts. Furthermore, the process of purifying individuals who were deemed impure or contaminated was also conducted based on the principles outlined in these books. In addition to this, societal customs and traditions were given significant consideration during the process of judgment.

**Role of Oath Taking**

It was a common practice to express veracity by means of taking an oath in the presence of Chhatrapati or by standing atop the stone tortoise within the temple. The act of standing in the river Krishna gained significant popularity during the Peshwa era. A plethora of documents are readily accessible pertaining to this matter. The Peshwaite was determined through the practice of standing in Shri Krishna.

The act of taking an oath by placing one's hands on the feet of the Chhatrapati, akin to the veneration of God's feet, can be observed in the passage provided. A land dispute emerged between Kamte and Bhikaji Harpale regarding the ownership of the Patilki land in Parasangi. Subsequently, the Panchayat informed the aforementioned individuals that they belonged to distinct categories. Within this context, the individuals representing the plaintiffs and defendants would assume their positions in the presence of Krishna. It was believed that Yesnak Mahara, a divine entity, would intervene by extracting the individual who was deemed truthful from the river bed. When Kamte and Bhikaji Harpale positioned themselves in Krishna as intended, Yesnak Mahara proceeded to guide Kamte out of the vessel by taking him by the hand. In this instance, Yesnak Mahara provided a sworn testimony affirming the veracity of Kamte's statement. Despite receiving approval from the Panchayat, Bhikaji Harpale expressed his disagreement by asserting, "The forehead of the Maharaja is akin to my deity Krishna. Hence, I am inclined to touch the Maharaja's forehead."[21] He uttered profanities in the presence of Chhatrapati Shahu Maharaj. Shortly after being sworn in, Bhikaji Harpale received recognition, followed by his untimely demise within a month. Kamte successfully substantiated his position in the dispute involving Patilki from the aforementioned village. The veracity of Kamte's account was impartially attested by Yesnaka Mahara and unanimously endorsed by all the panchayats. This elucidates the

[21] Bhave, *Peshwekalin Maharashtra*, p. 315.

distinctive significance of the testimony provided by the Mahars and their involvement within the Panchayat system during that era.

During the Peshwa period, as well as the Shivaji period, the divine form held a prominent and widely accepted position within the societal framework of the justice system. Various forms of Divya were observed, including Agni Divya, Vata Divya (refraining from extinguishing one's lamp in a sacred location such as a temple or mosque for a designated duration), Jal Divya (standing in a revered river like Krishna or Godavari and speaking truthfully, or spending 8-10 nights in a vessel on these holy rivers), and taking oaths by the divine feet of God or the feet of Chhatrapati. The depiction of Shri Krishna standing in the river bed was widely favoured in all of these manifestations. During the Peshwa era, the resolution of a majority of civil cases was facilitated through the utilization of Divya. Given that Divya represents the ultimate phase within the justice system, it is imperative for government officials to attend each Divya proceeding.

**Procedure for Hearing of Cases**

In the Peshwa Panchayat system, following a comprehensive evaluation of testimonial evidence, the Panch Mandali within the Panchayat would render its decision or verdict in the presence of the plaintiffs and defendants, considering accepted scriptures, prevailing customs, and certain indications. During the Peshwa period, in the context of the Panchayat system, the process of case adjudication involved the mandatory presence of both the plaintiff and the defendant. In the event that either the plaintiff or the defendant fails to appear at the hearing, despite prior notification, the surety responsible for their bail is issued a notice to produce the respective party. In the event that a litigant fails to present themselves before the Panchayat, despite having taken appropriate measures, the Panchayat shall proceed to render a judgment against the said litigant. This assertion is supported by the subsequent excerpt – The purpose of Gravhane Yani's absence was not to facilitate the delivery of the communication letter. The rationale behind his bail is attributed to the case of Lakshuman - Mokdam Mouze Khand. Upon summoning Vajla, the individual proceeded to embark on a quest to locate Gravhane, yet regrettably, their efforts proved fruitless. If this information had been previously acknowledged, the papers for these awards would have been revoked and

subsequently submitted.[22] The aforementioned document bears the date of March 1786. A disagreement emerged between Sidoji Gangaji Dagdya Patil and Mahomaji Manaji Gavane concerning the ownership of the Patilki located in Mauje Tulsi Bhose. Both parties presented their witnesses and sureties. A panchayat was convened at the Shri temple in Narsaupur in order to resolve the conflict between the two parties involved. The individual known as Lakshmana Rudra assumed the role of the government's representative. Following the presentation of witness testimony before the aforementioned Panchayat, it was determined that Sidoji Gangoji Dagdya Patil's claims were unsubstantiated, while the assertions made by Mahimaji Manaji Gavane Patil were deemed credible. However, despite receiving an invitation from the Panchayat, Mahimaji Gavane failed to attend the proceedings. Consequently, the previously documented evidence supporting his authenticity was invalidated, and the Patilki documents were instead issued under the name of Sidoji Gangaji Dagdya Patil, who was found to be fraudulent. Consequently, both the plaintiffs and defendants were obligated to attend the Panchayat during the scheduled final hearing. In instances where a party failed to attend the Panchayat despite being summoned, it was observed that the Panchayat would render a verdict against said party, as indicated in the preceding excerpt.

In the event that a judgment was rendered by the Panchayat against a party, the individual possessed the prerogative to exercise their right of appeal by submitting a formal complaint to the superior Panchayat. The legal terminology employed to describe the event in question is commonly referred to as a "re-hearing" within the context of court proceedings.

Upon receiving a case from the Peshwa Panchayat, the verdict was subsequently forwarded to the Peshwa's Pune Court for official endorsement. The absence of endorsement from the Peshwas rendered the verdict unofficial and consequently unenforceable.[23] The case was adjudicated within the Peshwa-era Panchayat system. Based on the analysis, it can be concluded that there is a lack of substantial distinction between the process of case hearings in the Majlis system during Shivji's era and the Panchayat system during the Peshwa period.

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[22] Gune, *The Judicial System of The Marathas*, p. 49.

[23] Bhave, *Peshwekalin Maharashtra*, p. 330.

**Appellate Jurisdiction**

During the Peshwa era, the panchayat system allowed for the resolution of disputes through adjudication. In cases where one of the parties involved in a dispute was dissatisfied with the decision rendered by a panchayat, they had the option to appeal to a higher panchayat for a re-hearing of their case. The practice of re-hearing was widely observed during the rule of the Peshwas. Individuals had the opportunity to present their pleas before any authorized representative in any village until both parties reached a mutually satisfactory resolution. The practice of passing down sow lines has been observed across multiple generations. He did not encounter any issues or concerns with the government as well. Due to the potential for financial recuperation through illicit means and coercion from the losing party, substantial monetary gains can be obtained subsequent to each legal decision.[24] It is evident that the Peshwas regarded the Panchayat as a mechanism for extracting monetary gains. Nevertheless, the Majlis did not possess such a system. Contrarily, Chhatrapati questions the rationale behind the repeated return to our presence. Based on the available evidence, it can be inferred that the Panchayat exhibited a high level of sophistication and development.

The mode of adjudication remained consistent regardless of whether the party that lost the dispute sought a re-hearing from any Panchayat.[25] This implies that in the event of seeking a re-hearing, the dissatisfied party's case would be adjudicated by the Panchayat of the respective jurisdiction.

During the tenure of Chhatrapati Shahu Maharaj, a dispute emerged between Balakrishna Joshi Ganjoshi Baikalkar and Vinayak Joshi, Ramchandra Joshi Baikalkar concerning the conduct of the Joshis, Upadhyayas, and religious authorities of 14 villages in Dabhol Subhya. The song "Haya Tanta" underwent a total of five re-evaluations by various panchayats from different locations, and interestingly, in each instance, Balkrishna Joshi was determined to be untruthful. Vinayak Joshi has composed written judgments pertaining to the social standing of the Joshis, Upadhyayas, and religious authorities across 14 villages in the Dabhel Subhya region. According to the document, it is stated that the aforementioned dispute underwent five subsequent hearings. The judge duly considered the takrira and bail katba (confession)

[24] Madhukar Kulkarni, *Peshawaitil Nyayadan*, Manasman Prakashan, Pune, 1998, p. 33.

[25] Khare, *Nana Fadnavisanche Charitra*, p. 156.

of Har Du Jana and subsequently appointed the Divya of Shri Krishna. Balkrishna Joshi concurred, and the representative of Srinivasa proceeded to approach Insafa, arguing that Divyas was innocent and that Insafa's claims were unfounded. Subsequently, Anjanvelis proceeded to Insafa. In light of the aforementioned circumstances, Balkrishna, who was in a recumbent position, inquired of Joshi whether his certificate was not located within the same village. Balkrishna Joshi also experienced defeat in that particular instance.[26]

Another significant document pertaining to the re-trial of the case within the Peshwa judicial system was the following: "Chinto Kanho made the decision and established the boundaries." One year subsequent to the aforementioned event, the watan known as Mauje Sal was transferred to Ramaji Malhar. Subsequently, Salkaran resubmitted the complaint to Ramaji Panta, prompting two or three clerks to initiate inquiries regarding the boundary matter. In this regard, Keshav Rone, the designated representative of the nation, was dispatched to investigate the aforementioned issue. He was subjected to an inquiry regarding his decision. However, Visaji Keshav expressed dissatisfaction with his lineage. Bavajni Anant, Balaji Mahadev Mandavagane, was appointed as the Panchayat for five villages in the Maval and Ta Haveli regions. Chinto Kanho and Visaji Keshab served as members of this Panchayat. However, Sanya expressed dissatisfaction with the decision. The individual proceeded to depict a series of eleven distinct points. Subsequently, an additional five village patlas were incorporated into the Panchayat. Visaji Keshav expressed contentment with the decision made by the newly formed Panchayat. Chinto Kanho's decision set a precedent, resulting in the liberation of land confiscation from Moje Ghode.[27]

Hence, the aforementioned document substantiates the existence of a mechanism for re-examining cases within the Peshwa Panchayat system.

**Punishments Prescribed by the Panchayat**

During the Peshwa period, there existed a lack of clearly defined regulations pertaining to the administration of punishment. There is a lack of consensus in various contexts regarding the nature of the crime, the identity of the perpetrator, and the corresponding punitive measures imposed. According to Elphinstone, a renowned British historian

[26] Kulkarni, *Peshawaitil Nyayadan*, p. 26.

[27] Gune, *The Judicial System of The Marathas*, p. 321.

specializing in the study of criminals and their punishments during the Peshwa era, it can be observed that during this period, the social caste of an individual held greater significance than the actual nature of the crime committed by said individual.[28] According to Vasudev Shastri, in agreement with Elphinstone's assertion, the administration of corporal punishment necessitates the authorization of Nana Fadnavis and subsequent Peshwas. However, the acquisition of this permission was deemed unnecessary in light of the criminal associations attributed to castes such as Bhil, Mang, Ramoshi, and others. The case officers employed a practice of administering harsh penalties to individuals solely based on suspicion.[29] Contrarily, it can be observed from the letter that Brahmins were predominantly granted exemptions from harsh or detrimental penalties, starting from the era of Bajirao I. - The clan of Grapal Ramrao has been apprehended by the entity represented by you. I previously corresponded with you to express my departure. However, their understanding of the concept was limited. The practice of excluding the Brahmin community is not a characteristic of the Maharashtrian religious tradition. The Peshwaite caste was afforded preferential treatment in the context of criminal punishment. The specific nature of punishments administered during the Peshwa era remains uncertain; however, it is imperative to ascertain the prevalent forms of punishment during that period.

**Punishment of Imprisonment**

During the Peshwa period, both Pune and Satara were equipped with prisons. The Maratha regime facilitated the implementation of imprisonment through the utilization of rice penal resources, which were established within the extensive network of forts located in Maratha territory.[30] During that particular period, prisons were commonly referred to as Adbakhanas or Bandikhanas. In addition to this, each fortress was equipped with dungeons. Furthermore, they were utilized as prisons.[31] The aforementioned excerpt appears to be highly advantageous in bolstering the aforementioned assertion. Sihingad was transferred to Pratapgad within a period of two

[28] Bhalchandra Phadke, *Phule-Ambedkar: Shodh Aani Bodh*, Anand Prakashan, Aurangabad, 1975, p. 161.

[29] Khare, *Nana Fadnavisanche Charitra*, p. 156.

[30] Sumit Guha, 'An Indian Penal Regime: Maharashtra in the Eighteenth Century,' *Past & Present,* No. 147, 1995, p. 119.

[31] *Selections from the Peshwa Daftar*, Volume-45, p. 139.

months. The walls of the house in question lack height and structural integrity. Upon receiving the aforementioned complaint from the Havaldar in 1779, a decision was made to resolve the matter by allocating a sum of five hundred rupees for the purpose of pleading. During the years 1779 and 1780, Bapu experienced two rainy seasons at Pratapgad. Subsequently, due to the favourable air quality at Raigad, the Gruvasta Madhavasi was relocated there.[32] Based on the aforementioned information, it is evident that the forts served as extensively utilized prisons. During the Peshwa era, each incarcerated individual was provided with a daily ration consisting of a portion of millet flour, a portion of dal, and a portion of salt. Two individuals were assigned to provide assistance to the incarcerated individuals within the prison. There exist documented records that explicitly indicate the occupation of the first individual as a cook while the second individual was assigned to engage in various other forms of labour. It is evident that the latter individual, who performed diverse tasks, belonged to the Maratha caste. The appointment of Isma, regardless of their caste, to provide services to the incarcerated individuals in the intervening prisons was deemed acceptable. However, the requirement for the prisoner's servant to belong to the Maratha caste appears to lack logical consistency. In instances where the incarcerated individuals belonged to the Brahmin caste, the task of serving the inmate was assigned to the Brahmin named Isma. During the year 1800 AD, a group of five Brahmin prisoners were incarcerated in Hadsar Jail. The authorities issued explicit instructions to the Jailor, emphasizing the importance of maintaining their well-being and ensuring their orderly confinement. The directive states that Brahmin servants and cooks are permitted to prepare nutritious meals for the priest, with the purpose of maintaining the physical well-being of these ancient Asamris and ensuring their proper care.[33]

During the Peshwa era, incarcerated women who had committed crimes were confined within prisons. There exists a multitude of documented instances wherein women were held captive and compelled to engage in fort maintenance tasks. Based on established traditions, customary laws, and sastric norms, it was widely acknowledged that certain individuals, namely infants, Brahmins, and women, were granted exemption from the

[32] Mukund Mahadev Gadre, *Sakharam Bapu Bokil*, Gyanesh Prakashan, Pratapnagar, Nagpur, p. 131.

[33] Khobrekar, *History of Maharashtra, Maratha Times*, Volume 2, Maharashtra State Cultural Group, p. 673.

imposition of capital punishment. The female citizens of the nation would be subject to financial penalties as a consequence of their unlawful actions. In the event that fines were deemed unsuitable, she would be subject to a sentence of incarceration. Our study does not include any cases in which women have been sentenced to capital punishment for their crimes. These women were assigned to the forts as a means of disciplinary action following the conclusion of their trial or during the trial process itself. Their duties involved undertaking strenuous labour to ensure the upkeep and maintenance of the forts. In one of the instances, Godi, the female individual who was detained, was incarcerated due to multiple offences.[34] Another passage pertaining to the aforementioned subject appears to hold significance: "The wife of Gangabhagirathi Ambabai Phadke, namely Maro Bapuji Phadke, is currently being held in custody within the confines of Mahuli Fort."[35] Special care was provided to political prisoners affiliated with the Peshwaite movement during their incarceration. Sakharam Bapu Bokil, a prominent figure in the Peshwa administration, acted in a manner that could be perceived as treacherous towards the Swarajya. He dispatched a correspondence to Hyder Ali, a known adversary of the Swarajya, wherein he conveyed the message that their forces were positioned in a manner that caused significant inconvenience."[36] Sakharam Bapu Bokil was apprehended and subsequently detained in Sinhagad, Pratapgad, and Raigad prisons. Gandhi's prison system was highly effective. "There are two individuals identified as Nitya who serve in some capacity. During the celebration of Dawes, a sum of 10 rupees was allocated for the occasion. Additionally, a total of 28 idols, each weighing 21 tolas of gold, were displayed. Adequate provisions of nourishing food, vegetable leaves, and the performance of Shraddha rituals were ensured for all participants.[37] The allocation of the Baril Soi concessions to Sakharam Bapu resulted in a heightened susceptibility of the Peshwaite political prisoners to potential acts of political betrayal. Hence, incarcerated political dissidents exhibited a lack of fear towards imprisonment. This evidence demonstrates that the prison was being accorded a high level of reverence.

[34] Guha, 'An Indian Penal Regime: Maharashtra in the Eighteenth Century,' p. 118.

[35] Ibid., p. 220.

[36] Ibid.

[37] Ibid.

The prison system in Peshwa was characterized by such attributes. The duration of imprisonment for different criminals in this prison was not determined by a standardized guideline but rather at the sole discretion of the governing authorities. However, it is undeniable that incarceration was widespread.

**Punishment of Dismemberment**

During the Maratha era of governance, individuals found guilty of committing grave offences were subjected to either capital punishment or mutilation as part of their sentencing. Mutilation was employed in cases where the imposition of capital punishment was to be circumvented, yet the governing authority sought to leave a lasting impact on both the offender and the broader community. There was a prevailing belief that a beggar without limbs would possess a higher degree of visibility compared to a corpse that had undergone cremation.[38]

Historical documents from the Peshwa period provide evidence of the practice of body mutilation as a form of punishment. Two specific passages highlight instances where an accused individual had their leg amputated[39] , and another had their arm broken.[40] These passages indicate that body mutilation was a recognized form of punishment during the Peshwa era. Correspondence from the Peshwa Daftar further reveals that the Peshwa himself endorsed and encouraged the use of mutilation as a criminal punishment for certain offences. Notably, a criminal named Chena Hiretaras had one hand severed on the Peshwa's order. The letters also provide insights into the methods employed for mutilation, including instances of individuals being trampled by elephants, beheaded, or having specific body parts removed. Different forms of mutilation were prescribed for different types of crimes. Additionally, the death penalty was prevalent in Maratha society, as documented passages detail instances of criminals being brought and executed. The documents confirm that obtaining permission from the Fadnis or the Peshwa was necessary before administering punishment to a criminal. However, it is noteworthy that individuals belonging to the Bhil, Mang, and Ramoshi castes could be subjected to the death penalty without requiring such permission.[41]

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[38] Guha, 'An Indian Penal Regime: Maharashtra in the Eighteenth Century,' p. 121.

[39] Gadre, *Sakharam Bapu Bokil*, p. 131.

[40] *Selections from the Peshwa Daftar*, Volume 5, p. 54.

[41] Khare, *Nana Fadnavisanche Charitra*, p. 337.

Consequently, both mutilation and corporal punishment were established customs within the Maratha rule.

**Punishment of Confiscation of Property**

The confiscation of land, immovable property, and movable assets served as a significant form of punishment during the Peshwa period. The patrimonial community of the Peshwas considered this punishment to be both severe and effective. Examples from historical documents illustrate instances where individuals had their properties confiscated as a consequence of their criminal actions. For instance, a goldsmith in Pune who minted a counterfeit coin had his house confiscated by the government[42] Similarly, the house of Dhondo Narayan Limaye Banche, who was involved in mischief, was seized in Harchori Taluka.[43] In cases of serious crimes such as Brahmin murder, individuals faced execution along with the confiscation of their property. The government would send officials to carry out the confiscation, as depicted in the mentioned document regarding Bawaji Vishnu Pradhuna Mahulikar.[44] Additionally, livestock could also be confiscated alongside immovable and movable assets. For Watandars (landholders), the government would seize their Watan (land grant) if they were found guilty of grave offences like adultery or murder. An example is provided of Malhar Dinkarrao Deshpande from Chakan, whose Deshpande Watan was confiscated by the government due to his involvement in both adultery and murder.[45] These instances highlight the practice of property confiscation as a punitive measure during the Peshwa period.

**Punishment of Atonement**

The societal mindset during the Peshwa period was deeply rooted in caste and religion, wherein each caste had assigned functions, duties, and behavioural expectations as dictated by religious scriptures and traditional norms. Straying beyond these prescribed boundaries was generally uncommon, as individuals were mindful of the consequences associated with transgressing these established social and religious restrictions. However, certain crimes were committed unintentionally or unknowingly, often in

[42] Bhave, *Peshwekalin Maharashtra*, p. 337.

[43] *Dusare Bajirao Peshwe Yanche Rojnishi*, p. 216.

[44] *Selections from the Peshwa Daftar*, Volume 43, p. 130.

[45] Bhave, *Peshwekalin Maharashtra*, p. 371.

violation of social and religious norms. Offences such as infecting members of the outcaste, engaging in forbidden deeds or marriages, engaging in localism, cow slaughter, Brahmin killing, rowdyism, or apostasy were considered grave transgressions known as Mahapataka or Upapataka. To absolve oneself of such sins, individuals were required to undergo a purification ritual facilitated by the Panchayat under the guidance of religious leaders from revered places. As part of the atonement process, individuals were obligated to pay a specific amount of money, commonly referred to as "tax," to the religious leaders of designated regions, such as Nashik, in order to obtain a certificate of atonement. The issuance of a clean letter by the Dharmadhikari, or religious authority, was contingent upon the presentation of the tax payment certificate.[46] During the Peshwa period, Panchayat was a recognized institution in the field of justice, and it was an important means of sin cleansing. If a crime was committed even in a secluded place, he would personally come to the Panchayat and seek atonement. Even if a crime was committed in an isolated location, individuals would personally approach the Panchayat seeking absolution.[47]

It appears that the Maratha judicial institutions implemented distinct forms of atonement for various offences. One particularly rigorous form of atonement was the practice of Ayambakeshwara circumambulations, which required individuals to perform 121 circumambulations covering a distance of 4 kosa (approximately 14 miles). Around 1780 AD, Narahari Ranalkar was assigned such a demanding atonement, as evidenced by the directive - "Send 121 pradakshina samples of 14 kosa of Sri Ayambakeshwara to Delhi and region for reference. He should bathe in the Ganges there and perform circumambulation. The letters of circumambulation should be obtained from the local Brahmins."[48] According to Brahminical Dharmasastras, offences such as killing or causing harm to a Brahmin necessitated penance such as Krichcha, Atikrichha, or Chandrayana. There is evidence that during the Peshwa period, the Panchayat administered the Chandrayana penance as a form of atonement for offences of this nature. Additional evidence supports this practice - "The men of this house should be cleansed by giving the Chandrayaena Avarat Bathashakti Valmek Tirthi, and the women of the house should be purified by giving Panchagavya or

[46] Joshi, *Marathekalin Samaj Darshan*, p. 101.

[47] Ibid., p. 100.

[48] Kulkarni, *Peshawaitil Nyayadan*, p. 78.

Mahadevabhat. Joshi's wife intentionally killed a Brahmin. Therefore, as a propitiatory measure, she should visit Shri Tribekeshavari, perform circumambulation around Dahya Keesha for 144 times, engage in daily Granga Swaanas, and obtain a letter of completion from a Brahmin residing in Kshatrastha. On the way to Bribankeshwara, she should perform four rounds of Dahar Kosha. Varakad Dayad, who is afflicted, should observe Bek Chandrayem every Asami."[49] From these passages, it becomes evident that the practice of Chandrayana penance was prevalent during the Peshwa period. The prescribed procedure for Chandrayana penance involved eating fifteen blades of grass on Panimi day, gradually reducing the quantity by one blade on each subsequent Krishna party day. During this process, fasting on Amavasya and adding one blade of grass daily in Shukla Paksha were observed in accordance with Chandravena Pravashchitra.[50]

In addition to more severe forms of punishment, recusal punishments were prevalent during the Peshwa period. One such recusal punishment involved the act of "throwing evil" by tipping a pot forward with one's mouth, as indicated in the provided statement. These recusal punishments served as a means of retribution for offenders. Furthermore, Panchayats during that era also prescribed various exceptional punishments, including monetary fines, boycotts, and public humiliation of offenders. For instance, the punishment for begging in the village involved public shaming.[51]

**Enforcement of Awards**

During the Peshwa period, the Panchayat system relied on the Panch Mandali, which consisted of judges responsible for evaluating witnesses, evidence, traditions, and approved texts. Government officials were tasked with ensuring that both plaintiffs and defendants adhered to the verdicts pronounced by the Panchayat.[52] In cases related to caste, the respective caste panchayat chief (mehtar) had jurisdiction and enforced the decisions.[53]

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[49] Kulkarni, *Peshawaitil Nyayadan*, p. 156.

[50] A. H. Salukhe, Vedic Dharmsutra.

[51] *Selections from the Peshwa Daftar*, Volume 43, p. 116.

[52] Khare, *Nana Fadnavisanche Charitra*, p. 156.

[53] Ibid., p. 156.

Following the judgment of any case by a Panchayat (excluding caste panchayats), government approval was necessary. In the Peshwa period, the judiciary was overseen by government officials such as Maweledar, Subhedar, and Phadnis. Only these officials possessed the authority to execute the awards.[54] Although Deshmukh and Deshpande, native officers, were part of the Panchayat, they lacked the power to implement decisions. Instead, they would send the verdicts back to the Peshwas for approval.[55] Once approved, the government officials would collect a certain amount as a fee for their endorsement, and the execution of the judgments would be carried out under their supervision.

**Fees of Panchayat**

In contrast to the modern judicial system, the Peshwa Panchayat system did not involve the use of court fees or bond papers,[56] which are significant sources of revenue in contemporary judiciary practices. Such a system did not exist in the Peshwa Panchayat system. However, the government previously derived a substantial amount of revenue from the Panchayat through alternative channels. During the era of the Peshwa, the Panchayats were responsible for the collection of Harki or Sherni, as well as criminal charges, from both plaintiffs and defendants. The custody of Harki or Sherni was transferred to the prevailing party in the legal matter, while the offender was apprehended by the party that did not succeed in the dispute. The incidence of violence and crime did not exhibit a consistent rate. Sherani and crime were charged based on an examination of the party's financial status. The method employed during Shivaji's era in the Majlis system was as follows – "The Panchayat during the Peshwa era proceeds to present a compilation of crime samples obtained from numerous offenders. Bawaji Mahadev Karkun Vadimat Praga Huzur Bani Salgusta transported the equines to his residence in the absence of official authorization from the governing body. A consensus was reached to take action against the aforementioned offender, resulting in a monetary penalty of 400 rupees imposed on Visaji Kanshav".[57] During the Peshwa period, the Panchayat played a significant role in generating substantial revenue for the government through the imposition of substantial fines on individuals found guilty of

[54] Bhave, *Peshwekalin Maharashtra*, p. 382.

[55] Ibid., p. 372.

[56] Chapekar, *Peshwaichya Savalit*, p. 109.

[57] Gune, *The Judicial System of The Marathas*, p. 323.

criminal activities or on the party that did not prevail in legal proceedings. Historically, panchayats have imposed specific monetary charges referred to as Harki or Sherni on the prevailing party involved in a legal dispute. Certain passages appear to be of significant importance in this context. A multitude of such excerpts can be observed within the Peshwa records pertaining to Harki or Sherni. It is evident from the given information that the government was generating substantial revenue from the fees associated with Harki and Sherni.

In addition to Harki and Sherni, it was customary for the Peshwas to levy a charge known as Chauthai. Chauthai refers to the practice in which a quarter of the proceeds from a civil suit were deposited by the government with itself, thereby sharing the remaining amount with the concerned parties involved.[58] During the process of debt recovery from the creditor, it was customary for the government to levy a Chauthai.

The Panchayat system in Peshwa imposed varying fees on both the plaintiff and the defendant for the purpose of adjudication. The collection of these fees was the responsibility of the government officials at that time.

**Award Letter – *Nivadapatra***

The document referred to as Mahjar in Shikal was designated as "Nivadapatra." Following the decision rendered by the Panchayat, the judgment was subsequently forwarded to the government for its official endorsement. In the past, the Government Court would produce two duplicates of the award, one presented to the prevailing party and the other securely retained within the government office. In the event that the duplicate of the document pertaining to the party was misplaced in the future, the duplicate of the original certificate was subsequently reissued at the request of the said party. The document mentioned above holds significant importance in substantiating the assertion that both the progenitors of Vatana obtained the Rajpatras, which the divine seal of Shri Krishna authenticated. This evidence indicates that two replicas of the award were being produced, as indicated by the presence of bars from Sataria's office.[59]

During the process of preparing the election document, the name of the revered deity was included in the paper, specifically on the election paper. The Nivadapatra of the

[58] Bhave, *Peshwekalin Maharashtra*, p. 376.

[59] Mavji and Parsnis, *Vatanpatre, Nivadpatre, etc.*, p. 40.

Peshwas contains references to various Srikars, including Sri, Shriram, Martand, Sriswar, Sevesi of Panch Parameshwara, Sevesi of Gotkasi, Laxmikant, Laxminar Singh, and others.[60] A visual representation denoting the occupation and caste of each individual mentioned above was depicted alongside their respective names. Following the completion of the formal information, a comprehensive account of the role played by the badi-defendant and the detailed testimony provided by the witness will be provided. The award letter explicitly referenced the sentence imposed on the culpable party, highlighting the central issue of contention, pertinent customs, and references in established texts. The conclusion of the affidavit previously contained the phrase, "This award is signed." Therefore, it can be observed that the institution of Panchayat gained significant popularity and societal acceptance during the Peshwa era. There is a lack of substantial distinction in the operational mechanisms of the Majlis of Shiva and the Panchayat of the Peshwas.

During the Maratha regime, the social and judicial institutions operated highly bureaucratic, emphasizing a comprehensive approach to the administration of justice. The process of dispensing justice was meticulously executed, with careful attention to ensuring that the outcomes and procedures were fair and satisfactory for all parties involved. These judicial institutions followed well-defined procedures, encompassing meticulous documentation, the summoning of relevant parties, and the presentation of structured witness testimonies. The imposition of punishments considered the social, political, and cultural standing of the individuals involved, as well as the potential impact on society at large. Deviation from the prescribed norms and standards governing these institutions was considered detrimental to both the state and society, and no one possessed the authority to undermine their integrity.

[60] Joshi, *Marathekalin Samaj Darshan*, p. 127.

# CHAPTER 4

# THE MARATHA JUDICIAL SYSTEM: A COMPARATIVE STUDY OF CENTRALIZED AND FRAGMENTED APPROACHES TO JUDICIAL ADMINISTRATION

In his work *Asian Drama,* Swedish economist Gunnar Myrdal famously introduced the word 'soft state.'[1] Myrdal used the terminology to explain the weak nature of post-colonial nations of South Asia, including the newly independent India, in enforcing their will upon the territories under their jurisdiction. In his own words, a soft state is characterised by,

> *... policies decided on are often not enforced if they are enacted at all, and in that the authorities, even when framing policies, are reluctant to place obligations on people.*[2]

Further, he stated that such weakness was excused to be inherent and part of the local culture and thus could not be done with under any circumstances. He said,

> *... the reluctance or inability to put people under obligations, to enforce commitments, or to apply effective measures against corruption, and so on – can be explained away or defended as expressions of Asian (or Indian, etc.) tolerance*.

Myrdal opines that these 'weaknesses' could have emerged as a result of colonialism, which destroyed the existing system of governance and law enforcement in these former colonies but failed to create their own to replace them. Keeping aside Myrdal's comments on the strength and nature of the modern Indian Republic, he is

[1] Sumit Guha, "An Indian Penal Régime: Maharashtra in the Eighteenth Century," *Past & Present*, no. 147 (1995): 101–26. http://www.jstor.org/stable/651041, p. 125

[2] Gunnar Myrdal, Asian Drama: An Inquiry into the Poverty of Nations, Vol. I, London: Penguin Books, 1968., p. 66

somewhat correct in observing something which was commonly seen throughout history during the times of political confusion and military occupations – the absence of a centralised judicial institution to enforce uniform laws throughout a realm under question.

**Political Composition of the Maratha State**

When discussing the nature of the judicial system in a pre-modern society, we cannot ignore the political conditions of the time. The division between the political system, military administration and judiciary was nil to none in those periods, with some texts such as *Sukraniti* of the opinion that the enforcing of judicial order and conduct of warfare comes under the same category as that of the *dandaniti*, i.e., enforcing of the royal will. Thus, judicial administration was an extension of royal authority.[3] The 17th and 18th century Deccan was infested with political disunity, factionalism, devastating army movements, and rebellions. The collapse of the Bahmani Sultanate and Vijayanagar Empire in the previous century left no supreme authority in charge of the region, which was meant to be filled by their successor states. The situations intensified following the attempts of the Mughals to bring the region under their control from 1599 onwards. The increased scale of warfare led to the rise of many autonomous warrior classes and families whose assistance was needed by the petty Sultanates to fend off the invaders and maintain at least a resemblance of order within their realms. One such group were, of course, the Marathas. They became prominent as important administrators and military commanders under the regency of the famed Abyssinian general Malik Ambar.[4] Desperate to maintain the Nizam Shahi Sultanate and thereby maintain his power, he assigned jagirs to the Maratha chiefs and allowed them to act autonomously in their own allocated territories. It seemed as if the Marathas learned the tricks of their Abyssinian patron and, following his demise, tried to maintain the Nizam Shahi state for their political upliftment.[5] Though the rump Ahmednagar state collapsed anyway under the Mughal pressure, the Marathas survived as they were recognised as the most critical factor for any ruler who wanted to control the Deccan. Being unruly, fierce and independent-minded, they were created by the troubled times,

[3] Guha, "An Indian Penal Régime: Maharashtra in the Eighteenth Century," (1995), p. 103

[4] Govind Sakharam Sardesai, *New History of The Marathas: Shivaji & His Line* (1600-1707), Vol. I, Bombay: Phoenix Publications, 1948, p. 45

[5] Ibid., p. 60

and their importance was maintained by those same disturbed conditions. Shahaji Bhonsle, the last regent of the Nizam Shahis (or what was left of them), switched sides to join the Mughals and the Bijapuris as he deemed fit, enjoying both benefits while receiving the wrath of none. The absence of a powerful state to enforce its will, unlike the one created by the Mughals in the north and later by the British in the Subcontinent, empowered such actors to thrive. In time, Shahaji and his family emerged as serious contenders to fill the political vacuum in Deccan, which became a reality when his son Shivaji crowned himself as an independent ruler in 1674, in defiance of both the Mughals and the Bijapuris.

On transforming from mercenaries to rulers, the Bhonsles faced the same issues that their predecessors and contemporaries faced: establishing a proper centralised rule in Deccan. The efforts of the Bhonsles were frustrated by the pressures from the side of the Mughals, as well as dissensions within their ranks. The 'empire' that Shivaji created was irregular; its compact division in the north consisted of the hilly terrains of the Western Ghats, which extended to the now-expanded realms of the Mughals to the east. His scattered territories to the south were more or less fortified settlements occupied by Maratha soldiers. While he established a centralised administration in his compact territories, popularly called *Swarajya* in Marathi, with three members of his Ashtapradhan council, namely the Peshwa Moropant Trimbak Pingle, Annaji Datto Sachiv, and Mantri Dattoji Pant, appointed over to administer its three divisions directly as *Sar-Karkuns* or chief royal agents, the governance of the southern territories was an unsettled matter.[6] It also did not help that Shivaji died suddenly in 1680.[7]

It was upon this pre-mature political entity that Aurangzeb descended with the full might of the Mughal Empire. Even before that, internal divisions plagued the working of the Maratha state. Shivaji had a tense relationship with his eldest son and heir, Sambhaji. At one point, he had defected to the Mughal side, with whom Shivaji was at war. Working as a Mughal agent for a short period, he captured some of his father's territories to be handed over to the Mughals.[8] He was brought back to the Maratha camp only after great persuasion. Shivaji was also unable to solve the differences between

[6] Jadunath Sarkar, *Shivaji and his times,* London: Longman, Green and Co., 1920, p. 405-406

[7] Sardesai, *New History of The Marathas: Shivaji & His Line* (1600-1707), Vol. I, 1948, p. 256.

[8] Surendranath Sen, *Siva Chhatrapati : being a translation of Sabhasad Bakhar with extracts from Chitnis and Sivadigvijya, with notes*, Calcutta: University of Calcutta, 1920, p. 237-240

powerful ministers such as Peshwa Moropant Pingle and Sachiv Anaji Datto.[9] Over time, Shivaji became dependent on such officials and, unlike the Mughal emperor, did not possess the adequate workforce to remove unruly officers at will and appoint new replacements. His power was also vested in the careful marriage alliances that he had created with other Maratha noble families.[10]

A considerable factor which helped him maintain his authority over his realm was his reputation and that of his father. The majority of the Maratha nobles owed their existence entirely to the services they rendered to the Bhonsle clan. However, some Maratha chieftains vehemently resisted Shivaji's attempts to incorporate them into his realm. These families had a reputable past as old as the Bhonsles themselves or even much older. Claims to antiquity were among the most important legitimising factors in a pre-modern society, employed by ordinary men and aristocrats. The older one can prove they were, the more acceptable they would become. Newcomers were seen as inferiors by older nobility and equal by their contemporaries, despite the actual scales of power. This would become a recurring theme in the history of Marathas, who would undergo massive political revolutions, not just mere face changes, throughout the 18th century. Each regime created a new and old set of nobility, jealous of each other and vehemently guarding what they perceived as their 'ancestral' rights. The text *Sivadigvijaya* states that Shivaji's coronation itself was an attempt to undermine the authority of Shirke, Mohite and Mahadhik Maratha clans, who, though Sardars who served Shivaji, still claimed equal status to that of the Bhonsles, given they all rose to prominence somewhere around the same time.[11]

The internal dissensions within his kingdom forced Shivaji to even think at one point in time to partition his realm between his two sons.[12] After his death, Sambhaji took over the throne through a coup that sent his younger brother Rajaram to prison, removing the senior ministers of Shivaji's cabinet from power. In 1681, Aurangzeb started his long-Deccan war, which lasted for a quarter of the century.[13] Senapati

[9] Sardesai, *New History of The Marathas: Shivaji & His Line* (1600-1707), Vol. I, 1948, p. 255.

[10] M. G. Ranade, *Rise of Maratha Power*, Girgaum and Bombay: Punalekar & Co., 1900, p. 221

[11] Sen, *Siva Chhatrapati: being a translation of Sabhasad Bakhar with extracts from Chitnis and Sivadigvijya, with notes*, 1920, p. 241

[12] Sarkar, *Shivaji and his times,* 1920, p. 380

[13] Sardesai, *New History of The Marathas: Shivaji & His Line* (1600-1707), Vol. I, 1948, p. 297

Hambir Rao Mohite, the remaining member of Shivaji's original Ashtapradhan and lone supporter of Sambhaji, was killed in 1687, which made the position of Sambhaji as well as that of the Bhonsle clan untenable. His angering of the Shirke clan proved to be his ultimate downfall, though, since they joined the side of the Mughals and fought against the Maratha State, which they themselves had helped at one point in time to create. In the end, Sambhaji was captured and killed by the Mughals in 1689.[14]

The Maratha polity survived, though, primarily due to the efforts of its two military chiefs, Santaji Ghorpade and Dhanaji Jadhav, and the extended family members of these two Sardars. The kingdom created by Shivaji was, however, weakened, with even the Swarajya territories now becoming a scattered lot controlled by the autonomous Sardars of Sambhaji's successor Rajaram, and held together by the diplomatic manoeuvres of Ramachandra Pant Amatya. Rajaram himself had escaped to the fort of Gingee in the far south.[15] Maharashtra, and Deccan as a whole, fell to further chaos.

Betrayals and frequent shifting of loyalties were the norm of the time. Like the early Bhonsles, ambitious Maratha nobles and clans benefitted as the Maratha-Mughal war dragged on, which increased their powers and made it more and more difficult to control them.[16] A case in point is that of Santaji Ghorpade. After he had a tussle with his suzerain Rajaram over his demand for a generous reward in accordance with what he perceived as in lieu of his services to the Maratha state, Santaji publicly proclaimed that he could make and unmake Chhatrapatis at his will. In response, Rajaram created a rift between Santaji and Dhanaji Jadhav by removing the former from the status of Senapati, raising the latter to the post. In the civil war that followed, Santaji was defeated and killed.[17]

By 1707, the Marathas emerged victorious in the long-drawn-out conflict against the Mughals, not through any decisive battle but by resorting to guerilla war tactics and rendering any more Mughal interference in the Maratha country futile. Thus, the

[14] Ibid., p. 313-315

[15] Ibid., p. 322-323

[16] Stewart Gordon, *The New Cambridge History of India: The Marathas 1600-1818*, Vol. II. 4, Cambridge: Cambridge University Press, 1993, p. 93-94

[17] Gordon, *The New Cambridge History of India: The Marathas 1600-1818*, Vol. II., 1993, p. 97

Marathas won the war "simply by not losing."[18] But the Maratha State would never be the same anymore, far from what its founder Shivaji conceived. When Shahu, son of the slain king Sambhaji was released from Mughal detention that same year, Maratha nobles quickly jumped the ship. They proclaimed him their new Chhatrapati, leaving the cause of Rajaram's widow Tarabhai and her son.[19] Those who shifted their loyalties included Dhanaji Jadhav, who was made the undisputed commander-in-chief of the Marathas by Tarabhai's deceased husband only. Tarabhai established her rival court at Kolhapur, while Shahu made Satara his centre. Support for Shahu primarily came from his readiness to issue jagirs to his supporters and alienate his sovereign rights within his kingdom. The practice of offering jagirs was something which was opposed by Shivaji and discouraged by the Maratha statesman Ramachandra Pant Amatya but re-started during the reign of Rajaram. Maratha and Mughal authorities granted lavish jagirs to the Sardars to bring them to their respective sides. Similarly, several offices of the Ashtapradhan were becoming hereditary like kingship, transforming into something like the Watandar or Balutedar systems of rural Maratha governance.[20] The jagirdaris gradually became autonomous Rajas in their respective domains, mimicking the rise of Bhonsles.

The Maratha-Mughal wars altered the political landscape of Maharashtra. By 1690, practically what anyone would call in a modern sense a 'state' had vanished in the Swarajya lands. The authority of the Bhonsle Chhatrapati ran through the Deshmukh families, who sided with them to counter any action on behalf of the Mughals to impose a much more stringent administration. Documents preserved in the collection of the Deshmukh families of the region give a clear picture of the unstable nature of governance and political authority at this time.[21] The condition of the Maratha kingdom

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[18] Stewart N. Gordon, "The Slow Conquest: Administrative Integration of Malwa into the Maratha Empire, 1720—1760," *Modern Asian Studies* 11, no. 1 (1977): 1-40. http://www.jstor.org/stable/311884, p. 6

[19] Govind Sakharam Sardesai, *New History of The Marathas: The Expansion of The Maratha Power* (1707-1772), Vol. II, Bombay: Phoenix Publications, 1948, p. 13-14

[20] R. V. Oturkar and S. N. Joshi, "Institution of Watan and its influence on the 18th Century Maratha Society," *Proceedings of the Indian History Congress* 8 (1945): 280–85. http://www.jstor.org/stable/45435429, p. 284-285

[21] Gordon, *The New Cambridge History of India: The Marathas 1600-1818*, Vol. II., 1993, p. 98

could not be any better described than the words of Ramchandra Pant Amatya himself, minister to Rajaram and his successors,

> *Many soldiers…went to heaven whilst fighting in the cause of their master in accordance with the duties of Ksatra. Some who lost their armies got confounded in their valour and went to the enemy. Some, seeing their master given up to vices like the enemy, usurped, with the idea of holding them independently, parts of territories and forts which had been made over to their possession…People rising like the crescent moon in various places owing to the government's weakness began to quarrel with one another. During these adverse times, minor chiefs…got firmly rooted. The remaining parts of the country became desolate, and forts got exhausted of military provisions. Only the idea of the state remained.*[22]

In a region infested with warring bands, one has to be either a competent warlord or a prudent negotiator who can provide these warlords what they desperately wanted: legitimacy and a negotiated peace to consolidate their gains. Shahu was not a warrior nor trained to be one. But he was willing to negotiate to any length to enjoy what he considered as his patrimony. Such a person was aided in his efforts by an even more skilled negotiator in the person of Balaji Vishwanath.[23] Hailing from a very obscure background, the rise of Balaji and his family is a point example of the nature of conditions through which the Marathas were going on then. Owing to the treacherous atmosphere of the time, Shahu desperately needed someone who was at least slightly more competent than himself to handle the colossal tasks of political manoeuvring, governance, military actions, tax collection, foreign diplomacy, dispensation of justice, and so on, functions for which Shahu was neither trained nor capable of.

A closer look at the actions taken by Shahu reveals that he and his successors would have sooner or later become powerless figureheads under any of their nominal subordinates; the Chitpavan Peshwas only happened to be successful in seizing this

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[22] Gordon, *The New Cambridge History of India: The Marathas 1600-1818*, Vol. II., 1993, p. 98, p. 100

[23] Sardesai, *New History of The Marathas: The Expansion of The Maratha Power* (1707-1772), Vol. II, 1948, p. 17-18

opportunity. For instance, just before his coronation, Shahu demanded the personal surrender of Sachiv Shankaraji Narayan, the head of royal correspondence in the Maratha kingdom, to show his fealty. The Sachiv, confused between choosing the sides of Shahu or Tarubhai, ultimately committed suicide. As compensation, Shahu conferred the post of Sachiv on Shankarji Narayan's infant son.[24] Even dead ministers held significant hold over the political affairs of the Marathas through their affluent clan members.

By 1711, all the hype that Shahu created vanished as if it was not there in the first place. Dhanaji Jadhav died in 1708 and was succeeded to the post of Senapati by his son Chandrasen. Shahu's attempts to curtail some of his powers ended in full-blown mutiny, and the Senapati and all the prominent officials of Shahu's court switched sides with Tarabhai's faction. Shahu now relied entirely on Balaji Vishwanath. Though no military man, he had deep connections within his own Chitpavan Brahmin community, among whom was emerging a class of businessmen and bankers known as *Savakars*.[25] Unlike any traditional merchant or banker of the time, this particular class was primarily engaged in war-financing and revenue farming, something which was a need of the time for the ever-warring Marathas.[26] Their support became crucial in creating an army for the now army-less Shahu. Later, they would be employed to re-organise the administrative structures of the Maratha state.

Increasingly threatened by his internal foes, Shahu was coerced by Balaji Vishwanath to appoint the latter as the new Peshwa. Thus, Peshwaship was transferred from the Deshasta Pingle family, imprisoned by the Angre clan for the Kolhapur faction, to the Chitpawan Bhat family in 1713.[27] The new Peshwa filled his office with his partisans, who were all from the Chitpavan community. Other offices of the Ashtapradhan were similarly parcelled out to the chief supporters of Shahu; Khanderao Dhabade was made the new Senapati, while Parsoji Bhonsle, who was the collector of *Chauth* for the

[24] Sardesai, *New History of The Marathas: The Expansion of The Maratha Power* (1707-1772), Vol. II, 1948, p. 17-18, p. 16

[25] Ibid., p. 22

[26] V. D. Divekar, "The Emergence of an Indigenous Business Class in Maharashtra in the Eighteenth Century," *Modern Asian Studies* 16, no. 3 (1982): 427–43. http://www.jstor.org/stable/312115, p. 427-428

[27] Sardesai, *New History of The Marathas: The Expansion of The Maratha Power* (1707-1772), Vol. II, 1948, p. 25

Maratha State in Berar, was conferred the new title of 'Sena Saheb Subha.' The Dabhade clan established their autonomous domains in Khandesh and Gujarat, while Parsoji Bhonsle's lineage became the rulers of the Berar-Nagpur-based vassal state.[28] Soon, though, the original Rajmandal or Ashtapradhan would lose its power. At the same time, the Peshwa and his group of assistants, important among whom was the Fadnavis, gradually became the new ruling council of Maratha State.

In situations where there were no actual land grants or council position to be given, the rewards constituted nothing more than future promises. From Shivaji's time, the Bhonsles demanded a 'protection tax' called Chauth from their neighbouring adjoining non-Maratha territories. Sultanates and Mughal provinces who wanted to avoid periodic Maratha raids were forced to remit twenty-five per cent of their gross revenue to the Bhonsles.[29] On top of this, Shivaji also claimed Sardeshmukhi's rights over the territories he had his sway. The concept of Sardeshmukhi had both actual and ritual benefits. Accepting Shivaji's demand to be a Sardeshmukh would mean he would rank among the top nobilities or Deshmukhs of Marathas, a privilege he desperately needed to establish his family's authority over the Maratha heartlands. Besides, Shivaji demanded the payment of one-tenth of all the revenue produced in areas where he and his family traditionally claimed to have acted as Sardeshmukhs. In return for all these, Shivaji promised to keep a certain number of troops and tributes for the Mughal Government. At best, these demands were signs of nominal vassalage and, at worst, extortion and plundering. According to M. G. Ranade, this was an earlier and native form of the British subsidiary alliance. [30] After Shivaji, the Bhonsles even alienated this right to 'tribute collection' by issuing *Sanads* or grants of revenue to roaming Maratha bands who regularly attacked Mughal territories and demanded Chauth and Sardeshmukhi payments in the name of their Chhatrapati. After the Mughal threat gradually withdrew following the death of Aurangzeb, these individual Sardars formed their governments in the tribute-paying lands, the claims to which were long-legitimised by the Maratha State.[31]

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[28] Ranade, *Rise of Maratha Power* p. 205

[29] Ibid., p. 222

[30] Ibid., p. 220

[31] Gordon, "The Slow Conquest: Administrative Integration of Malwa into the Maratha Empire, 1720 —1760," (1977), p. 6

The rights to Chauth and Sardeshmukhi were issued to the Satara Bhonsles by the Mughal authorities, who were still considered the highest power in India, though inimical to the Marathas. The Deccan wars of Aurangzeb left most of the Indian Subcontinent under the rule of the Mughals, and Mughal Subhas now surrounded the Marathas. The internal dissensions which stemmed after his death benefitted the Marathas in the long run. Attempts by both the Nizam and Sayyid factions of the Mughal court to control the Marathas failed, and instead, the Mughal nobles decided to use the Marathas for their benefit. The Sayyid faction successfully employed the forces nominally under Shahu. It was led by the Peshwa to dislodge Mughal Emperor Farrukhsiyar from the throne, who was secretly trying to collude with the Marathas to defeat the Sayyids. In return, Shahu, in the person of Balaji Vishwanath, was granted Chauth and Sardeshmukhi rights over all the six Mughal provinces of Deccan, as well as complete sovereignty over Shivaji's original Swarajya territories by the new puppet Emperor Rafi-ud-Darjat.[32] This became the new basis upon which the Peshwas rebuilt the Maratha State. Shahu, who received all these extraordinary grants, now ranked the highest Maratha noble. However, he could not enforce any of these rights personally. Instead, the Peshwas distributed the rights to Chauth and Sardeshmukhi of the six Deccan Subhas to the Sardars who were close to the Peshwas themselves as *Saranjams*. Sometimes, even these rights overlap each other. It took two more full decades for the Peshwas and his Sardars to force the Nizam faction of the Mughals to accept the validity of these rights. The Swarajya lands were maintained as the directly controlled territories of the Chhatrapati, though to be managed by his Peshwa. By 1731, issues with the Kolhapur Bhonsles were settled by the treaty of Warna, which divided the Swarajya lands between the two branches of Shivaji's line.[33] Kolhapur, from then on, behaved as a separate entity within the larger Maratha 'Empire' that was forming up.

Thus, the new Maratha polity was "…neither a compact kingdom nor a series of compact fiefdoms…"[34] After Shahu's death in 1749, the Chhatrapati became, in all sense, powerless figures, similar to their nominal Mughal suzerains in Delhi. The

[32] H. N. Sinha, "The New Foundations of Maratha Power," *Proceedings of the Indian History Congress* 23 (1960): 230–40. http://www.jstor.org/stable/44304068. p. 237

[33] Gordon, *The New Cambridge History of India: The Marathas 1600-1818*, Vol. II., 1993, p. 112

[34] Ibid., p. 111

Peshwas emerged as the new rulers of the Maratha State. Their authority rested upon three factors: (1) their capacity to personally lead their armies and achieve victories without suffering any severe loss, (2) their ability to find the required revenue to fund their costly expeditions, (3) their power to grant more and more Saranjams to their allied Sardars. The first clause was met by the ruling Peshwa or, in his absence, his family members. The second was achieved through the appointment of Chitpavan bankers in Poona, the residence and base of operations of the Peshwas, as the *Kamavisadars* or the revenue collectors of territories the Peshwas directly managed. For the third, regular expeditions were conducted into northern India and Deccan, where the authority of the Mughals was fast diminishing. The Marathas were desperate to outcompete other successor states of the Mughals to grab as many Subhas as possible, whether a proper administration was created in the conquered territories in the short term. Their efforts got legal sanctions when in 1752, the Wazir (Prime Minister) of the Mughal Empire, Safdar Jung, made an agreement on behalf of his Emperor which made the Peshwa 'protector' of the Mughal Emperor from all his enemies, internal or external. In return, the Peshwa was granted the Chauth rights over Punjab, Sindh and the Doab, and the governorship of Agra and Ajmer Subhas.[35]

Their efforts to fill every possible political vacuum gap resulted in a vast stretch of Maratha manpower across India. After a point, it became difficult for them to pursue military campaigns in any place they had committed. Unlike the Mughals, they have still not developed an institution similar to Akbar's Mansabdari System to incorporate non-Maratha elements into the Maratha court. Deprived of any allies, an army led by the eldest son and heir and the cousin of the Peshwa was defeated by the Afghans at the Third Battle of Panipat in 1761.

Like Shivaji's line of Bhonsles, the house of Balaji Vishwanath soon fell into succession struggles. From 1762 till 1783, the Peshwaship was contested between two lines of the Bhat family, one led by the descendants of Peshwa Balaji Baji Rao, who lost his army at Panipat, and the other by Raghunathrao or Raghoba, the brother of Balaji Rao and the seniormost member of the Peshwa family after the latter's death. The political disputes over succession often snowballed into erratic civil wars within the Peshwa family, which the Maratha Sardars took full advantage of. The early victor in these

[35] Zameeruddin Siddiq, "The Wizarat of Safdar Jang," *Proceedings of the Indian History Congress* 29 (1967): 190–204. http://www.jstor.org/stable/44155496, pp. 197-198

conflicts was Madhav Rao I., son of Balaji Rao. However, he suffered a premature death in 1772. His successor and younger brother Narayan Rao was killed by partisans of Raghoba in the next year.[36] Unlike in the Mughal Empire, where such fratricides were familiar with the nobles eventually supporting the victorious (or the surviving) prince, the Maratha Sardars went the opposite side. They started supporting the newborn son of the dead Peshwa in opposition to Raghboa.[37] The enraged Raghoba went to the British camp, asking for their assistance. This resulted in a series of wars termed the First Anglo-Maratha War, which lasted till the signing of the Treaty of Salbai in 1782.[38] The British recognised Madhav Rao II, son of the assassinated Peshwa, as the legal heir. Emerging out of this conflict was the office of Fadnavis, secretary-cum-auditor to the Peshwa. Its current holder Nana Fadnavis descended from the line of Chitpavan Brahmins who held the office from Balaji Vishwanath himself.

Fadnavis was Balaji Vishwanath in another form; he was no soldier in an era defined by warlords but an astute diplomat who could induce such warlords to do his bidding. The rise of this noble created additional troubles for what was left of the cohesion of the Maratha State. Mahadji Shinde, the Sardar in charge of Ujjain and Gwalior, was his greatest ally and competitor. Most of the military actions of the Marathas against the British were conducted by Mahadji only, while Fadnavis acted as the head of the Peshwa Government at Poona. Through his campaigns, this brilliant general became the most powerful military and political figure of the Marathas stationed in northern India. In 1784, he even received the title of *Vakil-i-Mutalik*, or the Regent of the Empire from the Mughal Empire, an even higher grant ever received by the Chhatrapati or the Peshwa.[39] The act questioned the ritual status of the Poona Government itself. For all these years, a large chunk of their *dejure* authority came from the Chhatrapati's status as the dignified vassal of the Mughals over the Deccan Subhas and his subordinate Peshwa's status as the protector of the Mughal throne.

The result was the existence of multiple power centres, both *defacto* and *dejure*. The Emperor at Delhi came under Maratha protection in 1752 and later from 1784 onwards

[36] Govind Sakharam Sardesai, *New History of The Marathas: Sunset Over Maharashta* (1772-1848), Vol. III, Bombay: Phoenix Publications, 1948. p. 26

[37] Ibid., p. 33

[38] Ibid., p. 118-119

[39] Ibid., p. 145

but was still regarded highly by all nobles of India. Then there was the Chhatrapati at Satara, who became the nominal head of the Maratha state after 1749. Yet again was the Peshwa, who lost control over his court after 1773 but regained some of the lost authority after Nana Fadnavis was arrested in 1798. The Peshwa's secretary Fadnavis was the real head of state for up to a quarter of the century, and this post could have transformed into a permanent one if not for his ouster from power by Daulat Rao Shinde, the successor of Mahadji Shinde. Similar to how the several Sardars of the Bhonsle clan rose to control when the Chhatrapati began losing their power, the loyal Sardars of the Peshwas started becoming independent ever since their patrons began losing their grip over the affairs of the Poona Government. The Holkar of Indore and the Shinde of Ujjain and Gwalior were virtual rulers who nominally accepted the diktats from the Poona Government, which was under the control of lower-ranked Fadnavis. Ever since Chhatrapati Shahu 'divided' his executive powers between the Chitpawan Peshwas to the west and the Nagpur Bhonsles (who were related to the Satara Bhonsles by marriage and were as instrumental to enthronement of Shahu as the Chitpawan Peshwas) to the east,[40] the latter went on an independent course of their own, forging a semi-independent state covering vast sections of eastern India. The Gaikwads of Baroda started their career as subordinates to the Dabhade clan, who became the hereditary commander-in-chief of the Maratha state and severe opponents to the authority of the Chitpavan Peshwas. The Gaikwads were brought under Peshwa's control by 1751, only after the Dabhades were completely overthrown from power. After the authority of Peshwas came under question, the Gaikwads became semi-independent. The Poona Government's inability to control its vassals led to internal wars, with the Peshwa himself fleeing his capital in 1802 in anticipation of an assault from the Holkars. All these Maratha Sardars continued to exist as vassal *Maharajas* or princely states under the British Paramountcy, even though the office of Peshwa itself was put to an end in 1818.

**Fractured Polity and Fractured Justice**

Uncertainty in politics resulted in delay in dispensing justice. From the Peshwa's period onwards, judicial powers in the Maratha State were exercised independently by three separate classes, namely, (1) The Peshwas, (2) their allied Sardars, and (3) the old

[40] Sardesai, *New History of The Marathas: The Expansion of The Maratha Power* (1707-1772), Vol. II, 1948, p. 219

Sardars of the Bhonsle clan. All these elements jealously guarded their powers and rights in what they considered as their patrimony, 'granted' by a higher authority like the Chhatrapati or Peshwas. An example of this could be the case of the Brahmins of a Mahadev Temple in the territories of the Ghatge Deshmukh. In 1771, a theft took place in the temple, and the Brahmans, having located the thieves, went to seek the assistance of a fellow Brahmin named Babuji Naik of Baramati. He was a high official at the court of the Peshwa. Babuji Naik promptly conducted the case, arrested the culprits, restored the stolen goods, and took the prisoners to be held in Pune. This did not go down well with the Ghatge Deshmukhs, under whose jurisdiction the temple came under. The current Deshmukhi holder demanded from the Brahmins why the case was not submitted before him in the first place and why the culprits were sent from "our realm" to the court of the Peshwa. Unsatisfied with the replies of the Brahmins, the Ghatges imprisoned them and, according to the accounts, beaten them "like thieves."[41] An attempt from the side of the Peshwa to remonstrate the Deshmukh was met with severe resistance. Other than cursing the Ghatges, the Peshwas never went to do anything more. The Ghatges belonged to an old line of nobility, who became politically irrelevant following the rise of the Chitpavan Peshwas. Thus. they had every right in their mind to resist any attempt on behalf of the Peshwas to take away their remaining 'Watandari.' Maintaining the monopoly over judicial rights was thus a quintessential part of maintaining political rights.

The profession of a judge, how much part-time it was, still yielded substantial income to the one who delivered justice. The cash-trapped Maratha officials and Sardars were ever ready to act as mediate in any case which would reward them with Harki, Sherni or Gunhegari court fees.[42]

The justice system was allowed to be manipulated and subverted by those in power. From a collection of political maxims prepared for the young Peshwa Narayan Rao, we could find pieces of advice such as,

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[41] Sumit Guha, "Wrongs and Rights in the Maratha Country: Antiquity, Custom and Power in Eighteenth-century India," in *Changing Concepts of Rights and Justice in South Asia*, Michael R. Anderson and Sumit Guha (ed.), Delhi: Oxford University Press. 1998, p. 15

[42] V. T. Gune, *The Judicial System of The Marathas: A detailed study of the Judicial Institutions in Maharashtra, from 1600-1818 A.D., based on original decisions called Mahzars, Nivadpatras and official orders,* Pune: Deccan College, 1953, p. 127-128

*...punish according to the offence; but if an eminent householder long in the service of the state has interceded, then pardon.*[43]

When the noble lady Rajasbai Patankar, in 1752-3, complained to the Chhatrapati at Satara that her relative Dharrao Patankar had plundered the traders of Sambhapur, looting all their property, the king wrote back that,

*You are kinsfolk. It is well if you come to an arrangement among yourselves; the Court cannot be useful in this matter.*[44]

**Further Alienation of State Sovereignty**

The alienation of judicial rights went to further levels when even private individuals could apprehend and 'punish' lawbreakers. Merchants and bankers became important under the Peshwas, who relied on them to collect taxes and provide funds for the never-ending military campaigns. The Kamavisadar revenue collectors belonged to this class of merchants. Outright harassment was often employed by creditors to recover what was due to them. This became an accepted fact from the late 17th century onwards. In that period, Sambhaji Patil became a debtor to the Gosavis, and so the latter confined his family and children, compelling him to sell his hereditary rights in order to pay back his debt.[45]

Though the Maratha State silently accepted the right to arrest a defaulter, the execution was to be avoided by the creditor. A person named Sidhmali owed money to Mahadji Govind Joshi, due to which the latter 'arrested' and maltreated him, resulting in Sidhmali's death. Joshi was fined 2,000 rupees for this act. In another case in the year 1787, a big money-lender by the name of Ganoba Naik Kumadi arrested two of his debtors and began to press them for repayment; the government warned him for their release them, but he did not comply. In the end, both individuals died, and Ganoba Naik was given a fine of 20,000 rupees. Somewhat similar were the rights of husbands or

[43] Guha, "An Indian Penal Regime: Maharashtra in the Eighteenth Century," (1995), p.106

[44] Guha, "Wrongs and Rights in the Maratha Country: Antiquity, Custom and Power in Eighteenth-century India," 1998, p. 24

[45] Ibid., p. 23

senior males within a family. Husbands were stopped at the point of publicly assaulting or killing his wife. However, given that the husband can produce 'valid reasons' for the act, he was pardoned. In a case in 1790, Moro, a tailor, killed his wife after finding that she was involved in an illicit relationship with another man. Instead of trying Moro for murder, Naro Mahadev Joglekar, the former's wife's paramour, was fined 2,000 rupees, of which Moro was given 300.[46]

There were cases where the State itself was the debtor, and the creditor was treated like he would treat any defaulting loanee. In the year 1753, a letter addressed to one Rajshri Shivaji Salokhe is evidence of such incidents. In this letter, the Chhatrapati, who had lost any real power by this time, stated that,

> *You have been disturbing the subdivision of Atpadi, and what need or right (prayojan) have you to do this? Despatch your accounts with a clerk to the Court. After considering them, the appropriate orders will be issued.*[47]

Similar issues were issued by the Peshwas too. In 1784, Manaji Sinde, a Maratha nobleman, set off from Shrigonda with two hundred soldiers and extorted money from or perhaps robbed some villages. The complaint against him was sent to his relative and superior, Sakhubai Sinde. In her return letter to the Peshwa Government, she stated that she summoned Manaji. The accused defended his position by claiming that he went for a mere hunting expedition,

> *Then I told the noble [chiranjiv-an honorific title] that if you go anywhere and cause turmoil after this, it will not be good for you. There is an order from the government to that effect, and I concur. Thereupon he spoke much, saying: '"The expenses of my following are great, my resources do not cover my expenditures ... How long can I hold my breath?'" [Sakhubai resumes] Let the Peshwa be gracious and make a settlement. I myself have been tangled in [Manaji's] debts for the last twenty-seven months. I have repeatedly petitioned*

[46] Guha, "An Indian Penal Régime: Maharashtra in the Eighteenth Century," (1995), p., p. 114

[47] Guha, "Wrongs and Rights in the Maratha Country: Antiquity, Custom and Power in Eighteenth-century India," 1998, p. 24

*the government, but no settlement has been made to date. Therefore the government should make an arrangement for Manaji's past debt and future needs.*[48]

The letter ended with ominously stating that failure in the repayment of the dues would result in him going on for more raiding expeditions into random villages under the Peshwa's authority.

**Attempts at Centralisation and Failures**

The Maratha State, however, tried to centralise its administrative apparatus, including the judiciary. From the information available to us from the accounts of the time, it is evident that the higher echelons of the Maratha State, at least theoretically in its early days, despised the idea of autonomous vassals and parallel power centres. In his Ajnapatra compiled around 1715, Ramachandra Amatya advises ways through which the hereditary Watan holders shall be controlled tightly by the monarch while, at the same time, never issuing any new watan, jagir, vritti or inam to any of his subordinates, how much efficient, skilled and loyal they are. The Amatya says that,

*...it is of a great injustice to give lands as inams to servants or vritti-holders for the purpose of achieving a task. A king, if he be an enemy of his kingdom, should be generous in granting lands. A king is called the protector of land for the sake of preserving the land, but if the land be given away, over what would be rule? Whose protector will he be?*[49]

Modelled on the administrative systems of the Nizam Shahis and the Majlis system operating at the local level, Shivaji had set up a Huzur Hazir Majlis or the Dharmasabha as the highest court of justice. He also created the post of Nyayadish, or Chief Justice, to aid him in dispensing justice. However, the system was only to last for a short time.

[48] Guha, "Wrongs and Rights in the Maratha Country: Antiquity, Custom and Power in Eighteenth-century India," 1998, p. 25

[49] "The Ajnapatra or Royal Edict," S. Krishnaswami Aiyangar (ed.), *Journal of Indian History*, Vol. VIII, Part I, Serial No. 27, (April, 1929), Madras: Diocesan Press, 1929, p. 217

V. T. Gune argue that the rise of Peshwas at the cost of the Chhatrapati and the institutions of the latter could be explained as a reason why the Marathas failed in creating a unified judicial apparatus.[50] Ramashatri Prabhune, the famed Nyayadish during the times of the Peshwas, relied on the ad-hoc Panchayats to settle even high-level cases that came before him.[51]

After assuming full powers, the Peshwas attempted to create a centralised judicial apparatus. Much of the civil administration of the directly controlled provinces of the Peshwas was handled by the Mamlatdars and Kamavisadars. Acting as the revenue agents of the Pune Government, these two officials also took up the role of judges when the situation demanded it. They gave sanctions to the ad-hoc Panchayats that were constituted to look upon cases and obtained the *Nivada Patras* of the Peshwas to part who won the case.

One of the most outstanding achievements of the Peshwas in the field of improving internal administration was the formation of the Kotwal system. The office of the Kotwal was first established in the year 1764 by the Peshwa Madhav Rao I. By 1783, seven Chowkies were established throughout the city of Pune.[52] The Kotwal of Pune functioned as the chief of police, city judge, intelligence head and the city magistrate all combined. While minor disputes in the city were relegated to the several Kamavisadars operating in the Peths, major cases were brought before the Kotwal.[53]

The Kotwal system was known for maintaining a tight check on the activities of the citizens of Pune. A strict curfew was maintained from midnight to the early morning, and none was allowed to break it, except in cases where an individual was personally escorted by the Chaukidars. A famous incident is recorded where the Peshwa Baji Rao II himself was put under detention for one whole night by the Kotwal for breaking the curfew rules.[54]

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[50] Gune, *The Judicial System of The Marathas…,* 1953, p. 45

[51] Ibid., p. 49

[52] P. L. Saswadkar, "A Note on The Kotwali of Poona in the last quarter of the Eighteenth Century." *Proceedings of the Indian History Congress* 24 (1961): 274–80, http://www.jstor.org/stable/44140764, p. 275

[53] Surendranath Sen, *Administrative System of the Marathas*, Calcutta: University of Calcutta, 1925, p. 427

[54] Ibid., p. 431

However, even such an 'efficient' force was immune from the ills of its times. Like all other non-hereditary posts under the Peshwaship, the role of Kotwal also became an auctionable object. Individuals who thus 'bought' this office abused their power and engaged in corrupt activities, including severe criminal and sexual offences against women. The situation became so tense that in 1791, the Kotwal Gashiram Savaldas was lynched by a mob of angry Brahmins. This was in response to the alleged death of twenty-one Maratha Brahmins under the imprisonment of the Kanoja (North Indian) Brahmin Kotwal. The Peshwa and his Fadnavis regent, who protected the Kotwal all along, had no choice but to compel to the demands of the mob.[55] Those who succeeded Gashiram were also no less hated by the people of Pune.

The Peshwas tried to expand their jurisdictional powers on their ritual status as the leading Brahmins of the State. In 1744-1745, the Peshwa ordered a class of Yajurvedi Brahmins who lived in Bassein to stop the custom of cross-cousin marriage since it was against the norms of Dharmashastras. Similarly, Peshwa Madhav Rao I confiscated the watan of a local Brahmin official Sakho Moreshwar Joshi Kulkarni, on the charges of not observing the mourning rites of a dead relative of the latter. He was even expelled from the community on the orders of the Peshwa. The issue of whether the influential Prabhu caste amongst the Marathas belonged to the Kshatriya class (and thus eligible to participate in the sacred thread-wearing ceremony) was a serious case the Peshwas were deeply interested in. The right to the *janeu* sacred thread and access to learning the Vedic scriptures meant that the Prabhus were almost ritually equal to that of the Brahmin Peshwas. Narayan Rao I, during his brief tenure, deprived the Prabhus of their Kshatriya status, downgrading them to the Shudra category. However, this decision became one of the reasons for the demise of this Peshwa since the aggrieved officials from the Prabhu caste joined in the plot to assassinate him.[56] In 1789-90, the Prabhus were again ordered by the Peshwas to stop following Vedic rites in their social functions. However, even during the times of the last Peshwa Baji Rao II, the Prabhus continued to wear janeu threads like the Brahmins. Baji Rao II tried to regulate the marriage practices of his fellow Brahmins as per Shastraic norms. He banned selling

[55] Saswadkar, "A Note on The Kotwali of Poona in the last quarter of the Eighteenth Century." (1961), p. 277

[56] Sardesai, *New History of The Marathas: Sunset Over Maharashta* (1772-1848), Vol. III, Bombay: Phoenix Publications, 1948. p. 20

Brahmin girls while ordering the parents to marry their girl-child before they completed nine years of age. Failure to comply with these was to be met with excommunication from the caste.[57]

Throughout the existence of the Maratha State, several legal treatises and compilations of legal codes were made. Besides from the famed Ajnapatra, there was the Sanskrit work *Dandaniti Prakaranam*, written by Kesava Pandita, a scholar who worked under Sambhaji.[58] The text is more or less a collection of quotations from early Sanskrit works on Dharmashastras. It contained verses even from that of Manu-Smriti. During the reign of Peshwa Baji Rao II, a compilation of several cases that were prosecuted in the latter half of the 18th century was made, called *Yadi Apradhi*.[59] Long after the Peshwa's power declined in the 19th century, Pratap Singh Bhonsle, the Chhatrapati at Satara, made his own compilation of legal traditions in his own *yadi*.[60]

However, there is little to no evidence which shows that these treatises were consulted when arriving at judgements. In the case of *Dandaniti Prakaranam*, the text explicitly stated that the Brahmins should not be harmed under any circumstances. Kesava's patron Sambhaji himself, had killed several senior Brahmin officials who had obstructed his path to power.[61]

However, it would seem that Maratha State eventually gave up on the realities under which it existed. Sharing the administrative roles and jointly holding the political sovereignty amongst all the important stakeholders became an accepted practice amongst the Maratha rulers. There was even a term for this form of Diarchy or Semi-Polyarchy, called 'Dayada.' The earliest reference to this concept from Ajnapatra itself, a text in most of its part, supported a heavily centralised state kingdom. The idea of Dayada, as explained in this legal treatise, was that the minor, often self-sufficient chieftains (Watandaris) mainly spread across the rural countryside were an unavoidable and indispensable part of the more significant State itself. They were sharers of royal sovereignty and, as such, more or less a

[57] Sen, *Administrative System of the Marathas*, p. 403-405

[58] V. S. Bendrey (ed.), Kesava Pandita's Dandanīti prakaranam or Criminal Jurisprudence (XVIIth Century). Pune: Bharata Itihasa Samshodhaka Mandala, 1943.

[59] Guha, "An Indian Penal Régime: Maharashtra in the Eighteenth Century," (1995), p. 124

[60] Sen, *Administrative System of the Marathas*, p. 348

[61] Guha, "An Indian Penal Régime: Maharashtra in the Eighteenth Century," (1995), p. 104.

legitimate 'office-holder' of the State.[62] Sure, they were a constant source of headache to the monarch and, given an opportunity, would betray the kingdom at the first instance. But in no circumstances a Watandari family shall be deprived of their hereditary rights, or less it will incur a great sin upon the monarch himself. It is better to bring such centrifugal elements closer to the monarch's side. Similarly, the text advocates that the position of ministers shall be made reserved only for the same family, who had been serving the monarchs for generations.[63]A loyal or inefficient minister can be removed, but in his stead, the king shall appoint a relative. It was an irony that Ramachandra Amatya, the minister who advised to control the existing vassals and create no more, himself shifted allegiances between the Satara and Kolhapur factions and secured revenue grants and forts for himself and his sons from Shahu, only to jump over to Tarabhai's side later.[64]

Even before the rise of Shivaji, the rural society of Deccani villages, by this time, had developed their methods for dispensing justice. The local Got Sabhas, Brahma Sabhas and Jati Sabhas dispensed their justice. These were community meetings, and were no experts in legal occupations. Above them were the Majlis, consisting of hereditary Deshmukhs, Deshpandes, Patils and Kulkarnis of villages, and sometimes officials from the ruling government's side presided over civil and criminal cases to arrive at judgements. There was no office or particular designated building where the 'judges' assembled, no proper system of how and when the 'court' sittings should be carried, no uniform laws over how these 'judges' could call upon the witnesses and evidences, and no standard procedures on how judgements shall be arrived at and executed. Judicial verdicts were often arbitrary, situational and revokable by a higher court of law, which was, in most cases, a much more powerful government functionary who possessed the power and will to enforce his own laws.

However, there were some established customary rules and practices on which the verdicts arrived. In cases which remained challenging to arrive at a judgment by the hereditary chieftains, Brahmins who were learned in the traditional Dharmashastras

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[62] Burton Stein, *The New Cambridge History of India: Vijayanagara*, Cambridge: Cambrdige University Press, 1989, p. 63

[63] "The Ajnapatra or Royal Edict," 1929, p. 209

[64] Gordon, *The New Cambridge History of India: The Marathas 1600-1818*, Vol. II., 1993, p. 107

were consulted for advice. The Brahmins and their Brahmasabha and Dharmadhikaris were sought after to obtain their observations in such situations.[65] There was also the practice of the Majlis issuing a 'Mahzar,' a written form of its judgement signed by the participants in the judicial process.[66] Hindu laws, Sharia laws, and Watan laws were all utilised by the community leaders to arrive at judgements.

The absence of a standard written code and the presence of written judgements reveal some interesting things. The purpose of the ad-hoc judicial institutions was not to serve justice or to impose equality amongst the citizens but to ensure a negotiated settlement between the litigants. The whole process was aimed at preserving the general peace of the rural society and not angering any particular group who, dissatisfied with the judgement, could cause severe law and order issues. Individuals with the capacity to do so were sufficient in number in the war-torn countryside of Maharashtra, where, as mentioned before, roved military bands and clans who cared little to none about the authority of Sultans, Mughals, Chhatrapati or Peshwas. In the presence of such characters who challenged the monopoly of the State to the handling of law, no standard law code could be enforceable. However, on reaching a 'judgement' or 'settlement,' a written record was created and issued, with the signatures of all parties involved in the case. The verdict was meant to be a written document which legitimised the position of the winning party. Additionally, the government official who was part of the proceedings could request for and receive a 'Watan Patra' from the court for the winning party to further entrench their legitimate claims.

It is to be noted here that the issuance of such Watan Patra was no guarantee that the government in question actually held any power to enforce the lower courts' decisions if it needed to be. Such deeds of recognition became important tools in the hands of ambitious individuals when there was a regime change. There was a case when Chhatrapati Rajaram was presented with a petition by an aggrieved Watandar. The latter requested the Maratha king to re-issue a grant initially issued by the now-extinct government of the Adil Shahis. Similarly, there were several claimants to patrimonial rights in the early 1800s who based their arguments upon the supposed issue of their charters by the Mughal Emperors or the Chhatrapati of Satara who had long lost their

[65] Gune, *The Judicial System of The Marathas…,* 1953, pp. 3-4

[66] Ibid., p. xvi

powers to the Peshwa (by this time, the Peshwas too became figureheads.)[67] The legitimacy of the Bhonsle Chhatrapati itself relied on some claimed rights, attested by the Sanads of a powerless Mughal Emperor. Thus, the deeds were confirmations of ancient rights and inviolable by any regime.

This last part is confirmed by the nature of cases the local judicial bodies entertain. Most civil cases were related to the rightful ownership of 'watan' in an area. Watan could exist in any form but generally meant the monopoly of a person or a family in a certain profession or office. In return, the person was entitled to a share of produce in the place where he worked. Watan rights were inheritable, divisible, and purchasable.[68] The Bara-Balutedar, or the twelve-servants system that was prevailing in the villages of Maharashtra, was based on the Watandari system only. The Watandari system was not always an efficient one, though. Issues within the family, issues with the rest of the local people, and the search for new opportunities all can force a traditional Watandar to leave his original home. In such cases, local authorities could hand over the duties of the Watandar and his remunerations to a new person, often from the same caste or profession. Things could go on peacefully until someone from the old Watandar family would come and stake a claim to their traditional right. In all such cases, the local community courts ruled in favour of the older family if they could prove their claim.

In the year 1765, a case was registered over the gold smithery Watandari rights (sonarkiche vatan) between two families of a village named Lonikhurd of Sangamner region to northeast of Poona. Lakshman was the goldsmith of Lonibudruk and Hasanapur villages, while Sadashiv was the goldsmith of Lonikhurd. Goldsmith Lakshman claimed that when the village Loni was divided into the three villages mentioned above, his ancestors held the Watan of goldsmithery in all these villages. After his great-grandfather died, the great-grandmother was remarried to a goldsmith residing in another village, taking a small boy (Lakshman's grandfather) with her, entrusting the gold smithery of three villages to a relative. Later, Sadashiv's grandfather migrated to Lonikhurd and started the gold smithery there; the relative who had been

[67] Guha, "Wrongs and Rights in the Maratha Country: Antiquity, Custom and Power in Eighteenth-century India," 1998, p.18

[68] Hiroshi Fukazawa, "Rural Servants in the 18th Century Maharashtrian Village—Demiurgic Or Jajmani System?" *Hitotsubashi Journal of Economics* 12, no. 2 (1972): 14–40. http://www.jstor.org/stable/43295541. p. 31

entrusted with the work informed the matter to Lakshman's grandfather, who accordingly sent back Lakshman's father and uncle to their ancestral villages; the father and uncle settled down in Lonibudruk and started the gold smithery in that village as well as in Hasanapur while demanding Sadashiv's grandfather and father to restore the Watan of gold smithery at Lonikhurd to them. Sadashiv's ancestors refused to comply, saying that the gold smithery Watan had been theirs though the document the villagers gave to that effect had been lost in an accident. The case was appealed to the local governor, who summoned the claimants and village officers and balutas of the three villages as witnesses. All the witnesses testified that the gold smithery watan of Lonikhurd was Lakshman's. At the same time, Sadashiv and his ancestors were 'new strangers' (*nava upari*), although they worked in the village for three generations as goldsmiths. On the basis of this evidence, Sadashiv admitted his defeat and gave his and his family's Defeat Letter (*yajitpatra*) to Lakshman in front of the governor and left the village.[69]

In another lengthily recorded case of the year 1763 shows a dispute over the black smithery Watan of a village named Koradh in the Junnar region. The family of carpenters there claimed that the carpentry Watan and the black smithery Watan of the village belonged to them and appealed the case to the local governor. The governor summoned all the claimants and twenty-five villagers, including the village Patil. In the justice assembly, the carpenters asserted that in the past, a member of their family held the black smithery Watan of the village. One day, he was summoned to the local office, beaten and fined because he had lost an axe entrusted by a villager for repair. The carpenter-cum-blacksmith left the village in disappointment. The villagers attempt to bring him back ended up in vain. Then the villagers brought a new blacksmith from another village and got him to do the black smithery of the village, whom the carpenters were opposed to. Against this assertion, the defendant stated that the black smithery Watan of the village had belonged to his family till his grandfather's time, but his father, in infancy, left the village and settled down in another place where the defendant was later born; after his father's death when he was fifteen years old, the officials of the

[69] Hiroshi Fukazawa, "Rural Servants in the 18th Century Maharashtrian Village—Demiurgic Or Jajmani System?" *Hitotsubashi Journal of Economics* 12, no. 2 (1972): 14–40. http://www.jstor.org/stable/43295541, p. 22-23

Koradh village came to know his whereabouts and invited him to take up the black smithery Watandar. Hence, Watan belongs to him alone.

The villages who were called as witnesses were divided into two groups: one party comprising fifteen members confirmed the assertion of the carpenters. It stated that after the carpenter-blacksmith did not return to the village, the Patil and other officers of the village brought a stranger or upari blacksmith from another village. Since then, he has been doing the blacksmithery and receiving his share of rural produce. He also stamps the seal of the blacksmith upon the documents when they are prepared. But this blacksmith is not the Watandar; neither his grandfather nor his father lived in the village. Nor was he brought to the village as Watandar. The rest of the villagers state stated that they did not know who had been the original blacksmith of the village or whether the black smithery of the village belonged to carpenters; the present blacksmith was the only person whom they remembered as having held the black smithery Watandari. However, they never knew his ancestry or previous status.

As the statements were divided this way, the local governor refrained from making a decision. He entrusted the matter to a panchayat composed of the Deshmukh, Deshpande and other hereditary officers and headmen of nearby villages. The Panchayat considered the above statements given by villagers. It gave the verdict that the present blacksmith was a part and thus an outsider to the black smithery Watandari, though he held that post for more than three decades. The carpenters, on the other hand, held it for generations, as attested by the majority of witnesses in the present. The Panchayat, thus, awarded the black smithery Watandari to the carpenters, while the defeated blacksmith submitted his yajitapatra.[70]

In the first case, the defendant lost primarily because of his inability to produce the document that his family claimed to possess. In the second case, neither party had any written pieces of evidence except the testimony of the leading villagers, whose memory were subject to alteration and fade. In both cases, the decision was arrived at a majority basis, after which the defendant was forced to submit a letter of defeat. This meant that neither he nor his family in the future could claim the Watan. Also, it is to be noted here that long years or even multiple generations of work and service never entitled a person

[70] Hiroshi Fukazawa, "Rural Servants in the 18th Century Maharashtrian Village—Demiurgic Or Jajmani System?" *Hitotsubashi Journal of Economics* 12, no. 2 (1972): 14–40. http://www.jstor.org/stable/43295541, p. 24

to be the permanent Watandar of a region. As long as the proper transition of the Watandari rights from the previous holder to the new holder occurred, attested in some written form, the family of the old holder were entitled to it. This was according to the right of antiquity.

After the Peshwa regime began, the institution of the Panchayat gradually replaced that of the Majlis. The plaintiffs and the defendants could nominate their own members to the panel of ad-hoc judges. When the committee of judges is thus constituted, the opposing parties had to sign an agreement which made them binding to any decision arrived at by the judges.[71] After the verdict was made, a *Nivada Patra*, similar to that of the Watan Patra of the Chhatrapati, was issued from the office of the Peshwa.[72] This Nivada Patra could be used as the legal document verifying the claims of the winning party to his Watandari or any rights. Again, the rationale was to lower the social tensions for now and future.

**Conclusion – Decentralised but Popular?**

The troubles that the Marathas went through were enormous. They were very new to the concepts of state building and state formation, and a majority of them served as soldiers or outright mercenaries to the larger political forces of the region, a profession they continued to do so in the 18th century after they seemingly formed an empire of their own. The Maratha State had all the features of a rudimentary polity, being developed by a class of people who were, after long being inculcated into the art of warfare, very recently decided to learn the art of statecraft. Shivaji was an extraordinary leader, both in military and administrative terms, who rarely had any peers to match his skills. His father Shahaji, through years of rendering military services to the various courts of Nizam Shahi, Adil Shahi and Mughals, created small patches of semi-autonomous private fiefs of his own throughout the Deccan and south, which he promptly partitioned between his sons. Shivaji built upon his share of the patrimony and introduced heavy centralisation measures in his realms to avoid the dissensions that he felt would arise amongst the Marathas soon after his death and probably also to avoid any other Maratha noble rising the same way as he himself did.

[71] Gune, *The Judicial System of The Marathas…,* 1953, p. 49

[72] Ibid.*,* p. 85

His plans collapsed in a matter of few years after his death. After a long struggle, a Confederacy-of-sorts rose to replace the earlier Maratha polity. Unity was maintained primarily due to the inability of any other Maratha aristocrat to challenge the ritual status of the Chhatrapati. This condition was utilised by the Chitpavan Peshwas to create their sphere of influence in the re-created State while alienating some while attracting new chieftains. The war machine that the Peshwas created was to be maintained by the war itself, which they failed to do so at the fields of Panipat. The Peshwas went through the same cycle as their Chhatrapati did, but no clear winner emerged. The end of the office of the Fadnavis meant there would be no more central government in the Maratha State, and thus the different constituents of the realm went their ways. Thus, the Marathas' first and last attempts to form a standing empire of their own failed.

However, this was familiar to the politics of Deccan and India. In the previous centuries, the Vijayanagar Empire had mastered this art way of governing its provinces. Rebellious chiefs were repeatedly pardoned, while at the same time, new autonomous chieftains known as the Nayakas and Poligars were frequently created within the territories of the Empire. Fealty of the vassals was ensured frequently via two methods: public ceremonies where the subordinate chiefs personally came and paid their respects and annual tributes before the ruler, and secondly, through an open display of military strength by sending armies led by members of the royal family into the lands near or within the territories of the vassals.[73] After long failing to create a centralised framework which could at the same time connect with the local units, policies of both empires shifted towards cultivating long-term personal and family association between the local units and an agent of the government, who was given vast autonomy for the purpose.[74]

The entire enterprise became a gamble in its second phase; the Chhatrapati and Peshwas acknowledged the rights of their subordinates and colleagues. In return, they expected these chieftains to accept the authority of the office of Chhatrapati. Shahu could proudly boast of his pan-Indian empire over which he held nominal control. No Maratha

[73] Stein, *The New Cambridge History of India: Vijayanagara*, 1989, p. 146

[74] Gordon, "The Slow Conquest: Administrative Integration of Malwa into the Maratha Empire, 1720—1760," (1977), p. 29

chieftain replaced either the Bhonsle Chhatrapati or the Chitpawan Peshwas, but *defacto* powers were deprived of them.

When it comes to the question of whether the Marathas succeeded in creating a centralised judicial system with all sets of proper codes and laws, which one would easily identify with a modern judiciary system, the answer is obvious by now. But how did the subjects of the Maratha realm fare in the system their rulers provided them? An observation by the Englishman John Hope, who was serving at the court of the Shindes/Scindias of Gwalior, would be helpful here:

> *In Scindea's country, there are no courts of law; and justice, if it cost anything at all, is what it ought to be, cheap and at every man's door. Let us suppose that Buxoo has a grievance against Ramkissen. He does not go to a solicitor to get him to file a bill and to lodge a retainer for the services of a Malins or a Cairns of the native bar. He proceeds to the Potail, or head man of his village, with his complaint, who directs a panchayat to assemble, by whom an investigation is made and redress given on the spot. Punchayut signifies a court of five persons,' and it is, beyond all question, regarded as the magna Carta of the millions, though, from deference to English prejudices and patronage, it is denied, unhappily, to the 180 million who are under our sway. In that court is no evidence of inferiority of race exhibited by suitors walking barefoot, whilst the high-salaried judge has his boots resting, perhaps, on the very table of the justice hall itself; no Hayleybury law to mystify Buxoo; no calling of foul names from the judgment-seat; no highnesses or excellencies; and, worse than all, no black Bum- bles to descant on their exertions, and to flatter the great functionaries. All these are signs of civilisation which, at present, lie far beyond the vision of the Mahrattas. There's is a degenerate State where a man can get a sort of equity which satisfies though it is not judicial, which costs nothing, and which is unattended with vexatious delays.*[75]

[75] John Hope, *The House of Scindea: A Sketch*, London: Longman, Green & Co.,1863, p. 11-12

Thus, not being qualified to be ranked before the judicial systems that succeeded, the Marathas created or at least maintained out of necessity or preference, a mechanism where commoners of any class could be able to enter freely and demand, even though how much arbitrary their self-appointed community judges could be.

# CHAPTER 5

# IN PURSUIT OF JUSTICE: CRIMES, PUNISHMENTS AND THE ROLE OF JUDICIAL INSTITUTIONS AS DEFENSE MECHANISM

The Maratha Empire, which existed from the 17th to the 19th centuries, experienced the development of a sophisticated judicial system with the objective of upholding law and order across its extensive territories. Crimes and punishments held a significant role in the empire's defence mechanisms, while the judicial institutions established the framework for the administration of justice. This section aims to examine the dynamic relationship between crimes, punishments, and judicial institutions in the Maratha Empire, with a specific focus on the distinct practice of employing undertrials and convicted prisoners as labourers for fort maintenance. Additionally, the caste system influenced the treatment of prisoners and the distribution of privileges based on social backgrounds. The judicial system of the Maratha Empire played a vital role in implementing punishments and preserving law and order. Courts presided over by judicial officers, were responsible for the execution of justice and the imposition of penalties. These officers interpreted and applied the empire's legal codes, ensuring the uniformity and equity of punishments. The courts demonstrated that crimes would not go unpunished by serving as a deterrent.

## The Concept of Punishment in the Maratha Empire

The primary goal of punishment within the Maratha Empire was to serve as a deterrent, contributing to the preservation of law and order. The design of punishments was intended to evoke fear in individuals, dissuading them from engaging in criminal behaviour. In accordance with this objective, the severity of the punishment frequently aligned with the gravity of the offence, whereby more severe penalties were reserved for acts of greater heinousness. The underlying principle behind this approach was to cultivate a pervasive sense of fear and deterrence among the population, ultimately leading to a reduction in the prevalence of criminal activities.

Retribution constituted another fundamental principle of punishment in the Maratha Empire. Punitive measures were regarded as a mechanism to achieve justice and reinstate equilibrium within society. Offenders were subjected to penalties commensurate with the nature of their crimes, ensuring they faced repercussions for

their actions. This principle underscored the notion of fairness and aimed to sustain social cohesion by holding individuals responsible for their transgressions.

Punishments in the Maratha Empire were directed towards maintaining social harmony by holding individuals responsible for their wrongdoings. The empire aimed to discourage acts that could disturb the social fabric by ensuring that offenders faced appropriate consequences. Punishments served not only as a form of retribution but also as a deterrent, dissuading others from engaging in similar behaviours.

Despite the central significance of deterrence and retribution in the paradigm of punishment within the Maratha Empire, the system also recognized the potential for rehabilitation and reform. Certain punitive measures, notably imprisonment, were devised to isolate offenders from society, affording them an opportunity for introspection and reflection upon their actions. The implementation of rehabilitation initiatives, including counselling, religious instruction, and vocational training, aimed to facilitate the successful reintegration of the offender into society as a law-abiding citizen.

**Legal Texts and their Significance**

Crimes in the Maratha Empire were classified according to severity and societal impact. Major offences encompassed crimes against life and property, treason, and acts of rebellion. The legal framework of the empire was established upon a compilation of diverse legal texts, such as the Dharmashastra, which laid down the guidelines for the administration of justice. Nevertheless, debates persist regarding the preferences and norms of punishments. According to Wagle, the adherence to Shastric norms of punishment was not consistently observed, countering the British perception of a methodical implementation of traditional Hindu law. Instead, pre-British India opted for a more adaptable approach to resolving disputes. The determination of sanctions relied more heavily on local customs and the principle of the individual's ability to compensate, leading to a more flexible system of punishment settlement.[1] Conversely, Uma Chakravarti posits that the growing reliance of the Peshwas on Brahminic

[1] K. N. Wagle, 'Women in the Kotwal's papers, 1779-1791', ed. A. Feldhaus, *Images of Women in Western Maharashtrian Society*, State University of New York Press, New York, 1998, p. 52.

interpretations resulted in the proliferation of Brahmanical gender ideology.[2] Sumit Guha asserts that the Maratha Empire demonstrated awareness of Sanskrit traditions in the realms of law and politics, occasionally drawing upon the classical concept of dharma or Maharashtradharma (the dharma specific to Maharashtra).[3] Nevertheless, it is crucial to examine the extent to which these scriptural laws, whether originating from Islamic or Brahmanical sources, might have influenced the penal practices employed by the Maratha Empire. Consequently, based on the existing sources in the form of case records, it is currently viable to assert that the nature of the Maratha judicial institution was grounded in antiquity, customs, and traditions, with the State's adherence to the principles of dharma.

The legal structure of the Maratha Empire was established on the basis of ancient Indian legal texts, notably the Dharmashastra. These texts played a pivotal role in shaping the Maratha judicial system by furnishing comprehensive guidelines for the administration of justice and delineating different crimes along with their respective penalties. The influence of the Dharmashastra extended to the development of legal codes and statutes, ensuring that punishments aligned with prevailing societal norms and religious tenets.

The Peshwas adhered to a traditional framework of socio-religious regulations rooted in the Laws of Manu. The Manusmriti, a foundational text, withheld Samskaras (sacraments) from the Shudra caste, leading to subsequent negative consequences. As a result, a fundamental distinction was established between individuals entitled to Samskaras and those excluded from them. This differentiation appears to have influenced the socio-religious practices of society during the Peshwa era. The Peshwas also proposed and formulated specific guidelines for societal behaviour. If castes or individuals deviated from the established code of conduct,[4] they faced various forms of punishment. An illustrative example can be observed in the Bassein region, where the Government issued an order in 1750 specifically targeting the Brahmin community

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[2] Uma Chakravarti, 'Wifehood, Widowhood, and Adultery: Female sexuality, Surveillance and the State in the 18th Century Maharashtra', *Contribution to Indian Sociology*, *29 (1-2),*1995, pp. 3-21.

[3] Sumit Guha, 'An Indian Penal Regime: Maharashtra in the Eighteenth Century', *Past & Present*, *No. 147*, 1995, p. 103.

[4] *Selections from the Peshwa Daftar*, *Vol. II*, ed., G. S. Sardesai, Government Press Bombay, 1934-40, p. 328.

(Samavedi). The directive mandated that Brahmins should recite sacred verses subsequent to performing ablution and adhere to the Brahminical Dharma. Failure to comply with these prescribed practices would result in punitive measures being imposed upon them.

The Maratha Empire employed a diverse array of punishments to discourage and address criminal activities. These penalties encompassed fines, imprisonment, corporal punishment, and capital punishment. The severity of the punishment was contingent upon the specific nature and seriousness of the crime committed. The underlying rationale behind these punitive measures was to uphold societal order, preserve established norms, and dissuade potential offenders. The punishments were carefully tailored to correspond with the nature of the crime and often served the purposes of retribution, deterrence, and rehabilitation.

Punishments in the Maratha Empire can be categorized into three primary forms:

1) Diwan Danda/Raj Danda (Official Punishment): These were punishments administered by the State and were considered royal in nature. The empire had dedicated departments responsible for handling crimes and their associated punishments. The state apparatus implemented these official punishments.

2) Deva Danda/Brahma Danda: This form of punishment had a religious connotation. Offenders who committed acts that were deemed severe sins had to undergo a process of expiation known as *Prayaschitta*. The purpose of Deva Danda/Brahma Danda was to allow the offender to purify themselves from the transgression and restore their religious standing.

3) Jati Danda/Gota Danda: Jati Danda, also referred to as Gota Danda, involved punishments based on social norms and caste regulations. Offenders who violated established social norms or caste rules had to undergo specific penances to rectify their actions. These penances were intended to enable the offender to reintegrate into their caste or social group, thereby restoring their status within the community.

In summary, while Deva Danda and Jati Danda were associated with religious and social punishments, respectively, they both involved expiation processes aimed at purging the offender of their sins or transgressions. These penances, known as Prayaschitta, were designed to facilitate the offender's return to normalcy within their religious or caste framework.

**Judicial Hierarchy and Administration of Justice**

The Maratha Empire featured a meticulously organized judicial system, encompassing a hierarchy of courts catering to diverse levels of legal matters. At the lowest tier, village panchayats efficiently managed minor conflicts and transgressions. Ascending in significance, higher-level courts, under the jurisdiction of officials appointed by the ruling authority, addressed graver criminal cases. Among these courts, the *adalats*, or district courts, played a prominent role, as did the *dindis*, serving as appellate courts. The task of interpreting and implementing the legal codes in the dispensation of punitive measures rested with judicial officers, including *qazis* and *pandits*. Their expertise ensured the fair and consistent application of the legal principles throughout the judicial process.

The Peshwa, holding the position of chief minister and wielding de facto power within the Maratha Empire, assumed a pivotal role in overseeing the administration of punishment. In conjunction with the Peshwa administration, the local governance apparatus, comprising revenue officers and district officials, collaborated in the enforcement of punishments and the preservation of law and order. Their collective efforts ensured the effective implementation of the penal system throughout the empire.

Imprisonment has been a prevalent and enduring method of punishment throughout the annals of history. The term 'Prison', as defined by the Oxford English Dictionary, refers to a specifically organized and furnished facility designed to accommodate individuals who, through lawful proceedings, have been committed to its confines either as a measure of secure custody during trial or as a means of administering punishment.

Imprisonment emerged as a customary mode of punishment in India since ancient times, with infrequent historical references to its use. In contrast, alternative sources highlight the prevalence of the death penalty, particularly in the northern region. Fa-Haien's accounts indicate that the death penalty was relatively uncommon in north India, where most crimes were instead addressed through fines, mutilation, or imprisonment as punitive measures.[5] Ancient Indian records lack a systematic account of prison construction. Critics have proposed that repurposed or deserted fortresses were utilized as prisons. Nevertheless, references indicate the existence of

[5] *Selections from the Peshwa Daftar*, *Vol. II*, ed., G. S. Sardesai, Government Press Bombay, 1934-40, p. 119.

*'Sannidhatas'*, who were responsible for the jail department. Their duties involved choosing appropriate sites and dimensions for constructing prisons. This implies that prisons were designed akin to miniature fortresses and castles, featuring small compartments within their structures.[6]

In Indian society, early prisons served as facilities for the temporary detention of offenders until their trial, judgement, and subsequent execution of the sentence. Ancient Indian texts such as the Manu Smriti, Yajnavalkya Smriti, and Kautilya's Arthashastra provide a comprehensive list of various offences and their corresponding punishments. These texts outline the legal framework and provide guidance on the administration of justice, including the types of crimes and the appropriate penalties for each.

Forts held significant importance in the defence strategy of the Maratha Empire, serving as vital strongholds and offering strategic advantages in warfare. These structures played a crucial role in safeguarding territories and providing a secure base for military operations. The maintenance and upkeep of forts were of utmost importance to ensure their effective functioning and defence. This involved labour-intensive tasks such as ongoing repairs, construction, and vegetation clearance to maintain the structural integrity of the forts and ensure their preparedness against potential attacks.

In the Maratha Empire, both the undertrials and the convicted prisoners were frequently enlisted as a workforce for fort maintenance. This practice served several objectives, encompassing punitive measures, discouragement of criminal behaviour, and economic considerations. Prisoners were allocated diverse tasks, ranging from wall repairs and construction to vegetation clearance. The work performed by these prisoners was subject to strict supervision and carried out under demanding conditions. Additionally, employing prisoners as labourers helped alleviate the economic strain on the State by utilizing unpaid or low-cost labour.

**Condition and Treatment of Prisoners**

The treatment and conditions experienced by prisoners during labour exhibited considerable variation. While certain prisoners endured harsh and inhumane circumstances, others were afforded basic necessities. The treatment of prisoners was contingent upon factors such as the gravity of their offences, social standing, and the

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[6] *Selections from the Peshwa Daftar*, *Vol. II*, ed., G. S. Sardesai, Government Press Bombay, 1934-40, p. 119.

prevailing policies of local authorities. To monitor the labour and contributions of prisoners to fort maintenance, diligent documentation and records were maintained.

In the fort prisons of the Maratha Empire, prisoners were classified based on their social status and the nature of their crimes. Typically, individuals from lower castes and women found guilty of adultery, irrespective of their caste, were assigned to arduous labour tasks involved in fort construction. The provisions for these prisoners consisted of regulated rations determined by weight rather than cost. Some prisoners were occasionally granted parole to fulfil religious obligations, such as performing rites for deceased parents, participating in marriages, or conducting thread ceremonies for their sons. However, the authority to grant such permissions rested solely with the Peshwa, who served as the religious head of the State.

Caste held significant importance in the social organization of the Maratha Empire, influencing individuals' social standing, occupations, and rights within society. These caste divisions permeated various aspects of life, including the criminal justice system and the treatment of prisoners. Within the prison system, caste-based segregation was evident, with prisoners being assigned tasks and accommodations based on their caste background. Higher-caste prisoners tended to receive preferential treatment and privileges, such as lighter tasks, better living conditions, and certain concessions. On the contrary, lower-caste prisoners faced discrimination and often experienced harsher punishments. Their labour was frequently exploited, and they had limited access to resources and opportunities within the prison system. This caste-based differentiation affected the experiences and treatment of prisoners in the Maratha Empire's prisons, highlighting the intricate link between caste dynamics and the functioning of the criminal justice system.

Under the Peshwa, a more significant distinction was made in awarding the punishment on account of the castes of the culprits rather than the nature of the crime. During the reign of Sawai Madhavrao, under the administration of Nana Phadanvis, the penal practices in the Maratha Empire exhibited discriminatory treatment towards the untouchable or lower castes, such as the Ramoshi, Bheel, or Mangs. These marginalized groups were subjected to severe forms of punishment, including the mutilation of their limbs. Additionally, capital punishment was widely employed for individuals convicted of serious crimes such as murder, treason, or dacoity. This differentiated approach to punishment based on caste and the severity of the crime demonstrates the unequal

treatment and harsh penalties imposed on certain social groups within the Maratha Empire's legal system.[7] In this context, we observe a revival of the ancient principle of amputating offending limbs, which was advised to Hindu kings by the compiler of Manu's code during ancient times. This practice reflects the influence of historical traditions and the reapplication of punitive measures from the past.[8]

In 1755-56, Rustoomrao was incarcerated in Lohagarh Fort. The fort authorities were instructed to ensure his confinement and take precautions to prevent any self-inflicted harm, as there were concerns that, being a Brahmin, he might resort to such actions. He was permitted a specific quantity of rice and *nagli*, and arrangements were made to ensure that his meals were prepared by a Brahmin. This incident unmistakably indicates the presence of caste-based discrimination towards prisoners within the Maratha Empire.

Caste-based discrimination was a pervasive reality within the prison system of the Maratha Empire. Lower-caste prisoners encountered marginalization and exploitation, enduring restricted access to resources and opportunities. Their labour was frequently exploited for the advantage of higher-caste individuals or the ruling elite. They bore the burden of arduous manual work and were subjected to mistreatment by both higher-caste prisoners and authorities. The discrimination and marginalization endured by lower-caste prisoners mirrored the broader social hierarchy prevailing in the Maratha Empire, wherein caste dictated power dynamics and determined access to privileges.

The treatment and privileges bestowed upon prisoners in the Maratha Empire were influenced by their social background and status. Higher-caste prisoners enjoyed certain advantages, including improved living conditions, access to healthcare facilities, and favourable work assignments. Conversely, lower-caste prisoners encountered discrimination and often faced more severe punishments. While higher-caste prisoners could leverage their influential connections and social capital to secure better treatment, lower-caste prisoners experienced marginalization and limited access to healthcare services. They were assigned physically demanding tasks and endured harsher

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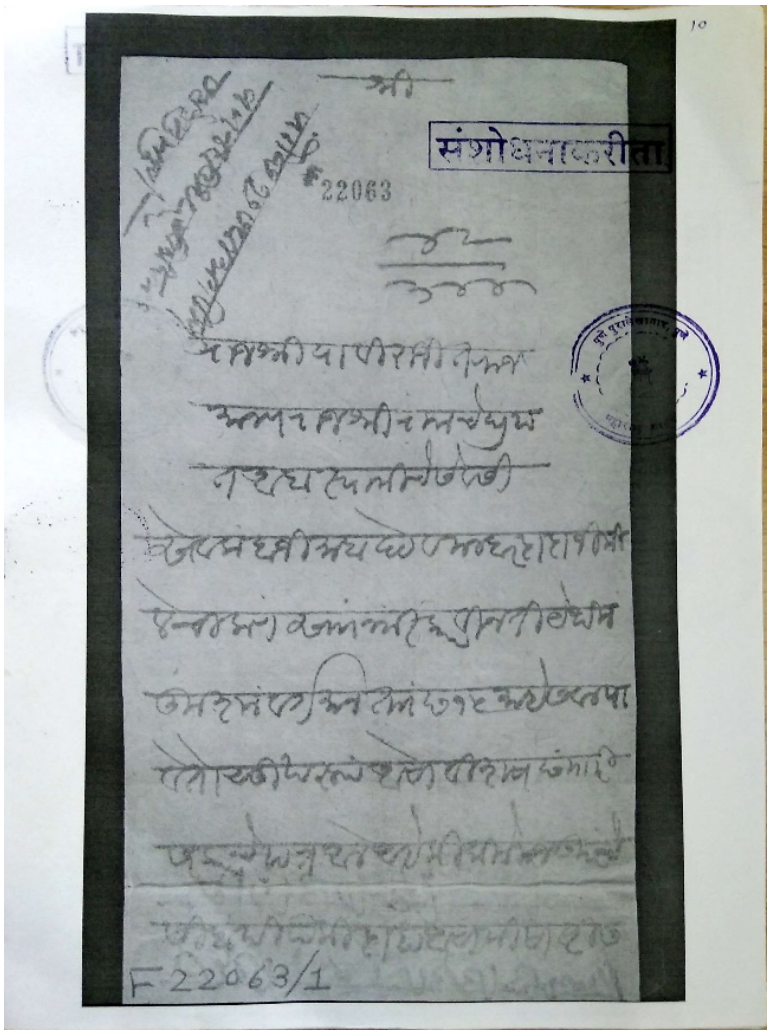
[7] V.V. Khare, *Nana Fadanvis Yanche Charitra,* Varada Prakashan, 2002, p. 237.

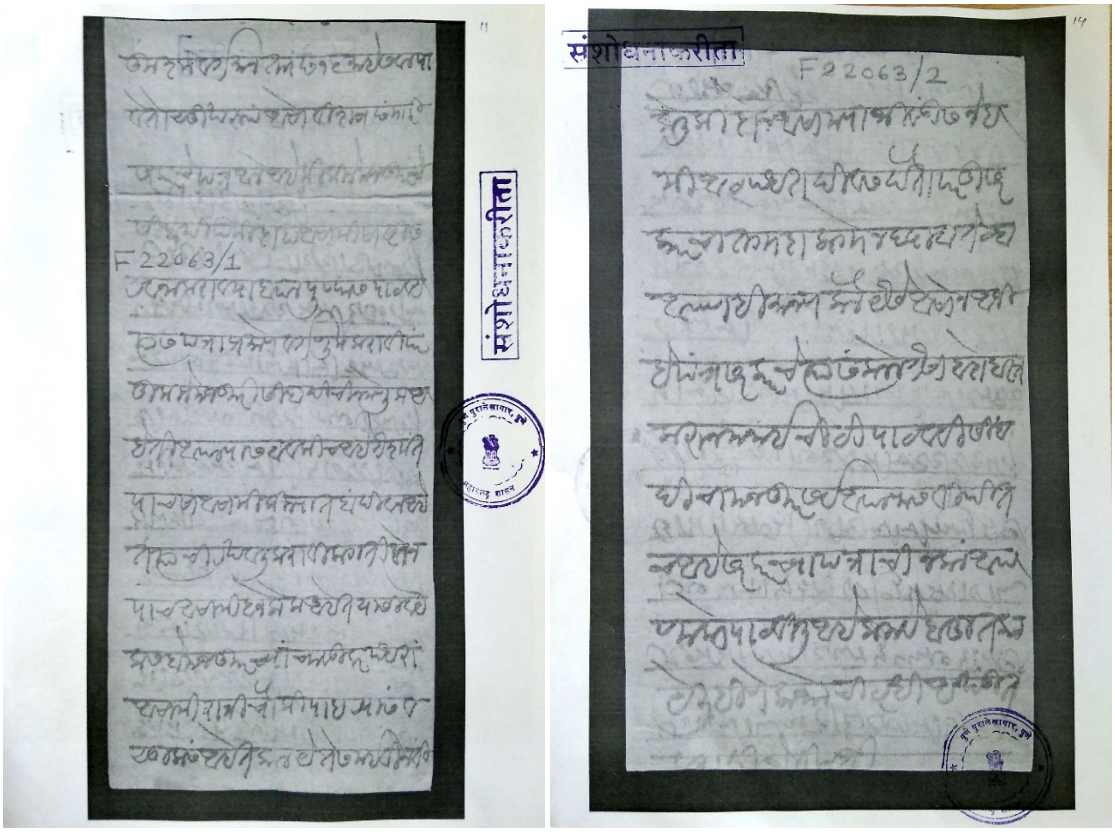
[8] Surendranath Sen, *Administrative System of the Marathas,* 2nd edition, University of Calcutta, Calcutta, 1925, pp. 237-38.

conditions. Their lower social status presented challenges in asserting their rights and obtaining justice within the prison system.

Imprisonment served as a punitive measure within the Maratha regime, although fines remained the primary form of punishment regardless of the nature of the crimes committed. Detention facilities, known as *Bandikhanas* or *Adabkhanas*, were commonly utilized in the forts for housing prisoners. Suspects were often detained for investigative purposes, while convicts remained imprisoned until their fines were collected. The Maratha Empire benefited from a wealth of penal resources in the form of numerous hill forts across its territory. These forts required ongoing maintenance and construction in various areas, emphasizing the importance of their regular use rather than being abandoned structures.



*Source:* Letter no. F 22063, Moodi script, Poona Archieves or Peshwa Daftar.




*This letter is written by Baji Mahadeo and Malhar Dadaji Ramchandrapant Aaba, Killedar of Chakan fort, about the number of prisoners in Chakan fort which are 5 or 6 in number and the inability to send 10 sepoys to Thane district as they themselves need 15 people to look after the prisoners and village near the fort.*

**The Role of Forts in Defence Mechanism**

Forts held a pivotal role in the defence strategy of the Maratha Empire, serving as formidable strongholds and offering strategic advantages in warfare. These fortifications played a crucial role in safeguarding territories and providing a secure base for military operations. The maintenance and upkeep of forts required significant labour, as it was essential for their optimal functioning and defence capabilities. These labour-intensive tasks ensured the structural integrity of the forts and facilitated their effective role in defending against external threats.

In the 17th century, forts held significant prominence, particularly in Maratha history, as they were constructed by various powers ruling in the Deccan region, including Bijapur, Golkonda, Ahmednagar, and the Maratha kingdom under the leadership of Shivaji. Understanding the history of the Maratha region, including the foundation, expansion, and

preservation of Maratha power, requires recognizing the immense importance of forts. Forts were regarded as symbols of strength, representing safety and well-being. They transcended their military function and came to embody administrative and symbolic significance. Shivaji devoted considerable thought and effort to the management of forts, recognizing their role beyond pure military value. Villagers' lives revolved around their villages and the forts in close proximity. As it was impractical for the King to visit each village individually, the fort and its commander, the *killedar*, stood as pillars of protection and assistance for the villagers. The forts served as centres of governance and focal points for local communities, solidifying their significance in Maratha society.

"Shivaji Raja was famous for his forts," says Lokahitavadi.[9] Shivaji, the prominent ruler of the Maratha Empire, displayed remarkable prowess in capturing and constructing a substantial number of 240 forts and strongholds. These forts held immense value in Shivaji's eyes, and considerable financial resources were dedicated to their maintenance and restoration.[10] The significance of forts and strongholds in the military organization of the Maratha state is evident from Shivaji's strategic approach. Recognizing the numerical disadvantage of his forces compared to his enemies, Shivaji emphasized the importance of efficiency over quantity. To achieve this, he prioritized strict discipline within his army and sought to evoke not only the military instinct but also the sense of patriotism among his soldiers. Shivaji aimed to compensate for the numerical disparity and create a formidable fighting force by instilling a strong sense of discipline and loyalty.[11]

During the early years of the Maratha period under Shivaji, there was a significant surge in fort construction activity in the Deccan region. Shivaji, often referred to as a 'mountain rat' by the Mughals, understood the strategic importance of mountainous terrain and took advantage of it by constructing numerous hill forts. He successfully conquered approximately 130 forts, with 50 located in Maharashtra districts and 80 in

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[9] Gopal Hari Deshmukh is popularly known as Lokahitavadi, was a social reformer from Maharashtra. He started his carrier as a translator for the British Raj. The group of article on social reform has come to be known in Marathi literature as Lokhitawadinchi Shatapatre. British Government honored him with the title of 'Justice of Peace' and 'Raobahadur'. He was also the founder of *Gyan Prakash*, *Indu Prakash* & *Lokhitawadi* periodicals in Maharashtra.

[10] Sen, *The Administrative system of the Marathas*, p. 2.

[11] Ibid., p. 127.

the Karnataka and below Ghat regions. In addition to capturing forts, Shivaji also undertook the construction of 111 forts, resulting in his possession of an impressive total of over 240 forts.[12]

**Importance of Forts in Defence Strategy**

The forts stood as a tangible representation of royal power, symbolizing the authority of the King. Among the architectural achievements associated with Shivaji, the multitude of forts spread across the Ghats of Maharashtra stands out as a testament to his ingenuity.[13] The forts of the Deccan region offer a remarkable variety in terms of their sites, functions, historical significance, architectural styles, and cultural heritage. Spanning a broad spectrum, these forts showcase the diverse range of fortifications in the region. At one end, we find the formidable Salher, the highest mountain fort in the Deccan, strategically positioned to protect the northwest border. Moving along the spectrum, we encounter the imposing Narnala, a massive fort belonging to the Gond tribe in the Vidharbha Satpudas. Situated north of Akola and overlooking the Chandavan valley, it represents a unique blend of land and hill fortification. Further along, we come across the renowned Daulatabad, a remarkably well-preserved fortress from the Middle Ages, notable for its design, construction, and enduring strength.[14] In addition, it is essential to highlight the significant presence of forts within the boundaries of Maharashtra, particularly the iconic Raigarh, which served as the Royal Capital during Shivaji's reign. The region is replete with numerous forts, including Purandhar, Harishchandragarh, Ankai, Shiveneri, Panhala, Sholapur, Pratapgarh, Kalyan, Janjira, Torna, Rajmachi, to name but a few. These forts represent the rich historical and cultural heritage of the Deccan region and contribute to the diverse landscape of fortifications in Maharashtra.

The abundance of forts during the Maratha era not only showcases the architectural prowess of the Marathas but also signifies the close relationship between the Chatrapati and the local populace in terms of control, communication, and administration. Each of these forts has witnessed strategic planning, defensive measures, and acts of aggression.

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[12] Prabhakar V. Begde*, Forts and Palaces of India*, Sagar Publications, New Delhi, 1982, p. 178.

[13] Stewart Gordon, *The Marathas 1600-1800,* The New Cambridge History of India, Vol. II-4, Cambridge University Press, New Delhi, 1993, p. 82.

[14] Sidney Toy, *The Strongholds of India*, William Heinemann, London, 1957, p. 33.

The Marathas skilfully utilized the natural strength of these fortifications, enhancing their invincibility with minimal artificial modifications. These forts stand as enduring symbols of the Marathas' ability to harness the existing natural strongholds and transform them into impregnable fortresses.[15]

These forts were strategically designed to fulfil the dual role of defence in times of warfare and as military bases. An essential aspect to consider is that these forts, totalling over 240, required continuous occupation to avoid appearing vacant. To ensure the continuous occupancy of these forts, the Marathas implemented a well-defined practice of housing prisoners within their premises. Alongside the presence of various fort officials, specific areas within the forts were meticulously designed and designated as Bandikhanas or Adabkhanas to accommodate the prisoners.

**Location, Administration and Fort Surroundings**

The geographical locations of these Maratha forts were strategically planned to take advantage of the natural defences offered by the Sahyadri mountain ranges. This led Grand Duff to assert that, from a military defence perspective, there is perhaps no stronger region in the world than the Deccan. The rugged terrain of the Sahyadri mountain ranges provided significant political advantages during times of warfare, especially against the northern powers. The geographical features of the region greatly complemented the Maratha people's inherent inclination towards independence and seclusion. The presence of numerous well-positioned and easily defensible forts in proximity allowed them to seek refuge quickly and mount a determined resistance. Unlike the Gangetic plain, this territory could not be conquered and annexed through swift cavalry manoeuvres or within the span of a single campaign.[16] However, it was crucial to ensure that these forts remained occupied in order to fulfil their purpose. By keeping the forts occupied and adequately maintained, as the prisoners did, they not only served as a stronghold against the enemy but also offered a significant advantage over invaders.

The Bandikhanas or Adabkhanas held equal importance to other architectural elements of the forts, such as walls, towers, gates, and parapets. The construction of Maratha

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[15] J. N. Kamalapur, *The Deccan Forts: A Study in the Art of Fortification in Mediaeval India*, Popular Book Depot, Bombay, 1961, p. 14.

[16] Jadunath Sarkar, *Shivaji and His Times*, Longmans, Green and Co., London, 1920, p. 5.

forts primarily involved the use of dressed or undressed blocks of rock or stones, often arranged vertically in a sequential manner. Due to the absence of mortar in the construction process, the base of the structures was typically made exceptionally thick to bear the weight effectively.

Shivaji implemented a meticulous selection process for fort officials, emphasizing loyalty and a strong sense of duty. No single person was entrusted with the sole command of a fort. Instead, three officials of equal status were typically appointed, ensuring collective decision-making and preventing any unilateral actions. As noted by *Sabhasad*, the three principal officers at a fort under Shivaji's rule were the *Havaldar*, *Sabnis*, and *Sarnobat*.[17] These officials were responsible for overseeing both military and civil affairs, ensuring effective administration and maintenance of the forts. In the Maratha fort administration, the Havaldar, hailing from the Maratha caste, held the crucial role of overseeing the garrison and defence of the fort. He possessed his own seal, known as *Mudradhikari*, and had the authority to carry out judicial functions within his jurisdiction. The Sabnis, belonging to the Brahmin caste, was responsible for managing the accounts of the fort. The *Karkhanis*, from the Prabhu caste, were entrusted with the vital task of handling commissariat work, including the supervision of construction projects within the fort. Additionally, the Karkhanis and the Sabnis played a supportive role to the Havaldar in their judicial duties. They acted as juries, endorsing the Havaldar's verdicts and aiding in the administration of justice within the fort.[18]

The list provided by Amatya includes various skilled individuals belonging to different crafts and professions. Among them are Brahmins, astrologers, physicians specializing in mineral and herbal medicines, surgeons, exorcists, wound dressers, blacksmiths, carpenters, cobblers, and others. Each of these craftsmen played a vital role in the functioning and maintenance of the Maratha Empire.[19] It is highly probable that skilled prisoners often occupied these positions. Together with them, the forts were also staffed by a contingent of approximately five hundred army personnel, including carpenters,

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[17] Surendranath Sen, *Siva Chhatrapati*: Being a Translation of Sabhasad Bakhar with Extracts from Chitnis and Sivadigvijya, with Notes. Calcutta, 1920, p. 22.

[18] *Marathyanchya Itihaschin Sadhanen*, ed. V.K. Rajwade, Rajwade Sansodhan Mandal, Dhule, 2002-3, Vol. XVI, p. 40, XV, p. 271.

[19] Ramchandrapant Amatya, *Ajnapatra*, ed. A.R. Kulkarni, Mansanman Prakashan, Pune, p. 72.

ironsmiths, and armourers. This workforce was essential for the efficient functioning of the forts and the maintenance of military equipment.

Stringent fines were imposed on individuals found engaging in misconduct within the forts, with severe consequences for their actions. The crime of adultery was treated as a cognizable offence, attracting significant penalties. An instance from 1675 illustrates this, where a female coolie working at the Raigad fort was found guilty of adultery and was subjected to a fine imposed by the State as a form of punishment.[20]

While Amatya advocated for severe punishment for criminals, a document from 1691 suggests that influential individuals during Rajaram's reign were treated leniently. Instead of facing punishment, these individuals were merely warned and excused for their first offences. This leniency towards influential persons in the face of their crimes is evident from the document and indicates a divergence from the recommended approach of severe punishment.[21] The shift towards a more lenient attitude in the judicial field can be attributed to the changing administrative policy of Rajaram, influenced by the critical period of Aurangzeb's campaign. During this time, Aurangzeb employed strategies of terrorization, massacres, bribery, and forced conversions. Recognizing the challenges faced by the Maratha state and the need for flexibility, Rajaram and his advisers introduced a system of feudal decentralization. This approach allowed Maratha captains to act independently and invest themselves with greater autonomy. As part of this decentralization, Rajaram adopted a lenient view in the judicial realm, aiming to accommodate the diverse interests and actions of the Maratha captains. This shift in policy reflected the evolving nature of the Maratha state and the pragmatic considerations in the face of external pressures.

Undertrials and convicted prisoners were frequently employed as a labour force for the maintenance of forts within the Maratha Empire. This practice served several objectives, encompassing punishment, deterrence, and economic considerations. Prisoners were assigned diverse responsibilities, ranging from repairing fort walls to constructing structures and clearing vegetation. They operated under strict supervision and laboured under demanding conditions. Using prisoners for such tasks fulfilled the

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[20] Rajwade, *Marathyanchya Itihaschin Sadhanen*, Vol. VIII, p. 32.

[21] Rajwade, *Marathyanchya Itihaschin Sadhanen*, Vol. XV, p. 350.

dual purpose of penalizing offenders and deterring potential wrongdoers while addressing the economic needs of fort maintenance.

Forts served as highly suitable locations for prisons, as evidenced by numerous documents highlighting the imprisonment of political defaulters within these structures. The Peshwas themselves paid attention to the administration of hill forts for a period of time. Historical records from the Peshwa Daftar reveal that forts like Raigad, Sinhgad, and Purandar were under the maintenance of the Peshwas. These forts were typically entrusted to a Havaldar and a small garrison, as they held lesser political significance. However, some of these forts, such as Raigad, were repurposed as prisons for political defaulters. For instance, Sakharam Bapu Bokil, a prominent member of the Barabhai Council, was confined in the Raigad Fort. Unpublished papers further indicate that individuals like Sadashiv Bhonde Hatu, associated with Raghoba's party, and Shivaji Kanho Khaladkar, involved in the conspiracy surrounding Narayanrao Peshwa's murder, were held captive in the Raigad fort in 1764. Similarly, in the same year, Sadashiv Ramchandra, Kane, Bhide, Hatu, and others from Raghoba's party were also imprisoned at the Raigad fort.

Another notable incident occurred when Shivaji's relationship with the English turned sour following his escape from the Panhala fort in 1660. During the siege of Siddi Johar in Panhala, the English Factors from Rajapur supplied Siddi Johar with grenades that significantly disrupted the besieged forces. As a result, Shivaji renewed his hostility towards the English and looted their factory in Rajapur, taking four English factors as prisoners. Initially, he held them captive in Songad Fort, but their attempted escape prompted Shivaji to transfer them to Raigad, where they were confined under stricter confinement.[22]

R.C. Burke observes that in situations where the prisons within the forts reached their maximum capacity, a report would be made to the Mamlatdar. Under his jurisdiction, the Mamlatdar would release the oldest prisoner to create space for new inmates. This unique system was prevalent in the Shirhatti Prant of the Sangli State. In some instances, when a person was incarcerated, and their relatives appealed to the court, stating that the absence of the prisoner hindered their agricultural activities, resulting in financial loss for the family, the court would carefully consider the evidence. Based on

[22] Sarkar, *Shivaji and His Times*, p. 323.

the evidence presented, the court would release the prisoner on the condition that they return to prison after the harvest or pay a substantial fine. Upon payment of the fine, the prisoner would be granted freedom.[23]

**Fort Construction and Maintenance as a Labour-Intensive Task**

Imprisonment served as an economical means of labour for fort maintenance in the Maratha Empire. Both male and female prisoners were utilized for productive tasks while being detained at a low cost. Due to prevailing customs, Brahmins were usually exempted from capital punishment, leading to a higher concentration of Brahmins among the imprisoned population. As noted by Sumit Guha, alongside undertrial prisoners, there were long-term prisoners who remained detained at the discretion of the King.

Unskilled labourers were commonly employed on a daily wage basis for construction and repair tasks within the forts. A significant portion of this unskilled labour force comprised state defaulters who were held in the Adabkhanas or Bandikhanas of the forts. Shivaji exhibited a liberal approach by ensuring that these workers received fair wages. The English Factory Record reveals that Shivaji frequently enticed labourers from Bombay by offering them improved wages and accommodations. A Bombay letter of March 1672 mentions that 'Sevagee being a building and giving great wages, hath tempted several of our workmen to run away'.[24] Shivaji offered better wages to unskilled labour and extended this practice to skilled labourers and artisans. Remarkably, even the culprits held in fort prisons, such as Rajgad, were employed as labourers for tasks such as carrying stones and other similar activities. This approach highlights Shivaji's resourcefulness in leveraging the available workforce, including prisoners, to meet the labour demands within the forts.

Women accused of adultery and misconduct faced harsh treatment within the forts. They were subjected to rigorous conditions and compelled to perform various duties associated with fort maintenance. This imposition of labour on these women reflected the punitive nature of their confinement and highlighted the gender-specific punishments imposed within the fort environment. In 1755-56, Dubli, "a female slave was sent to the fort, and it was ordered that she should be employed in pounding gun-

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[23] R.C. Burke, *Notes on Sangli State*, Mission press, Kolhapur, 1909, p. 189.

[24] *English Records on Shivaji (1659 - 1682)*, Shiva Charitra Karyalaya, Poona, 1931, p. 293.

powder and that she should be given one seer of Nagli every day."[25] For a duration of three years, an elderly Gujarati Kunabi woman was assigned the task of grinding and pounding grain.[26] Female Siddhi slaves in Taluka Konkan were actively involved in the production of ammunition.[27] At Fort Sinhagad, three female slaves were engaged in various building works.[28] In 1782-83, three female slaves who were involved in intimate relations with Frenchmen in Poona faced social ostracization and were expelled from their caste. Consequently, they were assigned to work on building projects at Fort Sinhagad as a form of employment and disciplinary measure.[29]

In 1772, a Brahmin widow named Janhavi, who had violated the societal norms related to widowhood, was imprisoned, and subsequently sent to Purandhar Fort. Her assigned task within the fort was the preparation of mortar for construction purposes.[30]

**Appropriation of Fines**

The economy of the region relied heavily on agriculture for sustenance, while maritime trade was still developing and had not yet reached its pinnacle. Western Maharashtra faced the challenge of recurring famines, with the first significant famine occurring in the year 1630-31, leading to the loss of more than one million lives in the Ahmednagar district alone. Subsequent major famines occurred in the Deccan region in 1655, 1682, and 1684. These famines had a detrimental impact on the economic conditions of the region, exacerbating the already challenging circumstances.

The Marathas were engaged in frequent conflicts with the Mughals, resulting in the devastation of areas such as Pune, Junnar, Udgir, and Ausa. The coastal cities faced persistent threats from the Portuguese. Moreover, natural calamities, including famines and diseases, further compounded the challenges. These unfavourable factors, including frequent warfare, hindered the expected progress of the economy. Patankar asserts that the economic framework relied heavily on revenue collection, but some

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[25] *Selections from the Peshwa Daftar, Vol. II,* p. 305; *Vol. VIII*, p. 1107.

[26] Ibid., p. 295.

[27] *Selections from the Peshwa Daftar, Vol. VII,* p. 747.

[28] *Selections from the Peshwa Daftar, Vol. VIII,* p. 1103.

[29] *Selections from the Peshwa Daftar, Vol. VIII,* p. 1103.

[30] Ibid., pp. 210-211.

scholars argue that a state solely dependent on land taxes cannot achieve substantial growth.[31]

When Shahu came to the throne, he had an empty treasury with a relatively small army. Although he acquired Sanads from the Mughal Court, recovering from various sources was not easy. The territories were either under the local feudal lords or Mughal sardars. To get money, he needed more troops and vice–versa. Holding his enemy at bay also required money. Therefore, he depended on his ministers to draw new plans and expected them to work out new methods to expand the army and defence strategy. All these activities forced the Government to extract money from internal and external sources.

The Maratha regime implemented several measures to address the financial challenges it faced. These measures included the establishment of cumulative deposits, where funds were pooled together to alleviate the burden. Additionally, contracts were awarded to individuals responsible for providing wages to the army. The regime also resorted to taking advances from internal sources, such as land revenue, and issued demand drafts (waratas) for repayment. Yearly agreements were made to secure financing for special war funds, enabling the regime to meet its financial requirements. These measures aimed to alleviate the financial strain and ensure the smooth functioning of the Maratha regime.

Fines served as a significant revenue-generating mechanism during that period, encompassing a wide range of amounts, from small sums like half a rupee to substantial sums reaching thousands of rupees. While the offender's ability to pay, which depended on his livelihood (Jiwan Mafik), was considered when determining the fine, fines could be imposed in various cases that came under the jurisdiction of the authorities. Flexibility was provided in the payment of fines, allowing offenders to pay in instalments if they were unable to pay the entire amount at once. Permission could be sought from the panchayat to pay fines over a period of time. It was not obligatory to pay fines in cash, and alternatives such as payment in kind were accepted. For instance, in the case of Bhikaji, a cowherd who committed adultery with a woman of the same

[31] B. R. Patankar, *Apporna Kranti*, Manju Prakashan, Pune, 1988, p. 117.

caste, both individuals were required to pay a fine of one Khandi (20 mounds) of ghee to the Government.[32]

During trials, fees were imposed on the parties involved as a form of monetary extraction. The offenders were eventually required to pay *Gunehgari* (fines), while the winning party had the option to pay *Harki* or *Khushi Shreni*. Although it is not explicitly stated in the available documents that *Harki* was mandatory, it was a voluntary payment offered by the winning party. However, many cases mention the amount of money paid to the authorities as *Harki*. Moneylenders are frequently mentioned in the *Kotwal* documents, as they provided loans to offenders. Fines were levied for various offences, including the consumption of alcohol and sexual misconduct, which served as lucrative sources of fine collection. Even in cases of murder where imprisonment was imposed, the offender could secure release by fulfilling the requirement of paying fines.

Instances exist where an entire community could be subjected to fines due to the actions of a single individual. For example, marrying one's daughter to a nephew was considered an offence, and inter-cousin marriages were prohibited. The Yajurvedi Brahmins in the Bassein region, under Portuguese rule, violated these norms by arranging marriages between their daughters and nephews. Consequently, the entire community was excommunicated and fined 50 rupees each by the Peshwa. The enforcement of this order was carried out by the office in charge of Bassein.[33]

Offenders, in some instances, were able to evade severe punishment for crimes such as murder by paying fines. An example is the case of Morset Bani, who was found guilty of murdering his wife and admitted to the crime. Instead of facing harsh punishment, he was released upon payment of a fine.[34] Another case involved Chhota Kashi, who committed rape and subsequently went into hiding. His house was attacked in response to his crime, and his father, mother, wife, and children were imprisoned. They were eventually released upon payment of a one thousand rupee fine.[35]

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[32] *Selections From the Satara Rajas and the Peshwas Diaries*, Vol. II, ed., D. B. Parasnis, Indu Prakash Press, Bombay, 1906, p. 66.

[33] Sen, *Administrative System of the Marathas*, pp. 397-398.

[34] Ibid., pp. 381-383.

[35] V. T. Gune, *The Judicial System of The Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Poona, 1953, p. 367.

In the case of Bhavani, the daughter-in-law of Pandurang Bapuji Parad from Poona, it was found that she had committed theft within her own house. As a consequence, she was subjected to physical assault on her face. Tragically, Bhavani subsequently took her own life. In the legal proceedings that followed, Pandurang was found guilty of the offence and was sentenced to pay a fine of five thousand rupees as Gunehgari or fine. However, the father-in-law managed to evade punishment despite being proven guilty by paying a monetary sum as a fine.[36]

While it is true that the fines collected from offenders were intended to provide compensation to the victims, it is noteworthy that in many cases, the amount received by the victim was significantly smaller compared to the total fine collected. For instance, in one particular case, out of a total fine of ten thousand rupees, only fifteen hundred rupees were allocated as compensation to the victim, while the remaining amount was deposited into the state treasury.[37] This distribution of funds highlights the disparity between the restitution received by the victim and the proportion of fines utilized for the benefit of the State. In the case involving Naro Mahadev Joglekar, who engaged in an illicit relationship with the wife of Moro, a tailor, the unfortunate consequence resulted in Moro taking the life of his unfaithful spouse. As a form of legal consequence, Joglekar was imposed with a fine of two thousand rupees. However, it is noteworthy that out of the total fine amount, the tailor received a sum of three hundred rupees specifically to facilitate his remarriage.[38]

Instances can be found where women were subjected to fines for engaging in acts of adultery, considered as *badkarma*. In situations where the adulteress was unable to pay the stipulated fine, she would be imprisoned and tasked with laborious construction work. Furthermore, there are records indicating that some of these adulteresses were treated as commodities and sold to individuals, similar to ordinary articles, as a means of generating the required fine amount. For example, in 1755-56, a Brahmin named Gangadhar Bhat Karve purchased a female convict for the sum of thirty rupees.

There are notable instances where substantial fines were imposed. In 1759, Adai, a woman belonging to the Patil family of Wadgaon, was fined a considerable amount of

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[36] Ibid., p. 356.

[37] *Selections From the Satara Rajas and the Peshwas Diaries*, Vol. VIII, pp. 85-86.

[38] Gune, *The Judicial System of The Marathas*, p. 365.

rupees 7000/- for her involvement in adultery with Zagadpura Gosavi of Puse-Savali. It is noteworthy that once the fine was paid, the offenders were often granted pardons.[39]

Fines were collected from offenders in various ways, with the State employing different methods to extract the payment. However, another form of the fine was imposed on all individuals involved in a legal case. In the Maratha country, it was believed that being involved in a case was a sinful act. As a result, after every legal proceeding, the parties involved had to undergo a purification process known as *prayaschita*. This act of penance was necessary for societal acceptance.[40] In order to achieve purification and social acceptance, the caste assemblies followed a specific process. This often involved providing food to Brahmins or making monetary offerings to ensure complete purification and to be reinstated in society without prejudice. For instance, in the case of Baku Pethi, who was involved in the death of her adoptive brother, she had to pay one thousand rupees as permission to undergo prayaschita and an additional one thousand rupees as a fine for the crime of murder. Hence, in the Maratha country, convicts were subjected to a dual form of punishment: one imposed by society and the other levied by the State.

The collection of fines remained a central aspect of the Maratha administration, regardless of the nature of the crime committed. Offenders could evade their punishment by paying a fine. The administration showed a great emphasis on the revenue generated through fines, as evidenced by a statement from the authorities in 1783-84, addressed to Satvoji Gavde, a commander of the government cavalry, 'You consider and settle people's quarrels and disputes. The fines, fees, and debt–recovery charges that have accrued and will accrue, you will credit to the account of the unit in your charge.'[41]

Numerous cases involving adultery, murder, theft, and various other offences demonstrate the role of punishments as a means to generate revenue. The judicial institutions of the Maratha administration were primarily oriented towards the objective of filling the treasury, as evidenced by the nature and focus of these cases.

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[39] *Selections From the Satara Rajas and the Peshwas Diaries*, Vol. II, p. 68.

[40] Sen, *Administrative System of the Marathas*, pp. 397-398.

[41] *Selections From the Satara Rajas and the Peshwas Diaries*, Vol. VIII, p. 129.

## Conclusion

The existing literature on the prison system of the Maratha Empire lacks detailed descriptions regarding the internal administration of prisons. There is a dearth of information regarding the specific types of prisoners who were incarcerated. Notably, imprisonment was not the conventional form of punishment, and most penalties were administered outside the prison setting. Moreover, there appears to be a lack of specific rules and dedicated staff for the treatment of fort prisoners.

The fortresses in Maharashtra exerted significant influence on the governance of the State. During the Peshwa period, as Maratha influence expanded beyond the Narmada River, the military significance of the Maharashtra forts diminished, transforming them into administrative centres and state prisons.

During the Maratha era, the majority of offenders were subjected to punishments outside the confines of prisons. These penalties were often influenced by factors such as caste and religion. Based on caste and religious affiliations, local communities were primarily responsible for dispensing justice within their respective villages unless the matter necessitated state intervention. It was primarily political prisoners who were confined to fort prisons under Maratha authority.

The symbiotic relationship between establishing law and order and the imperative of economic stability and revenue generation is evident throughout historical records. The Maratha Empire, which thrived in the Indian subcontinent from the late 17th to the early 19th century, exemplifies this correlation. During this time, the Maratha rulers adeptly employed diverse administrative mechanisms to ensure the efficient collection of revenue while concurrently upholding social harmony through the astute handling of crimes and the implementation of fitting punishments.

The Marathas, renowned for their military prowess and shrewd governance, were acutely aware of the pivotal significance of an efficient revenue system in maintaining and expanding their empire. With this awareness, they meticulously devised a range of administrative mechanisms to not only generate revenue but also assert control over their subjects. These mechanisms encompassed comprehensive economic policies, well-structured land revenue systems, taxation on trade and professions, the establishment of an organized administrative apparatus, and the implementation of a robust legal framework to address criminal activities and enforce appropriate penalties.

The implementation of these administrative mechanisms by the Marathas served as a successful means of simultaneously managing revenue generation and addressing criminal activities within their vast territories. The intricate interplay between economic policies, revenue collection, and the justice system played a crucial role in ensuring the stability and prosperity of the empire. These mechanisms not only highlighted the administrative acumen of the Marathas but also underscored their profound understanding of the significance of revenue generation and their unwavering commitment to upholding law and order.

The imposition of fines in the Maratha Empire was not subject to a standardized framework and exhibited variation based on multiple factors. The magnitude of the offence, the social standing of the offender, the ramifications of the offence on society, and the financial capability of the offender were all influential in determining the quantum of the fine. While certain cases adhered to predetermined regulations in setting fines, others granted the court discretionary authority to establish the appropriate amount based on the specific circumstances.

Fines played a pivotal role in the fiscal framework of the Maratha Empire, serving as a crucial instrument for revenue generation. Their collection functioned as a means to bolster the State's financial stability, providing resources necessary for the smooth operation of the administrative apparatus, including the maintenance of the legal system and the remuneration of judicial personnel. During the 17th and 18th centuries, fines held multifaceted significance within the Maratha Empire. They served as a mechanism for preserving law and order and played a vital role in upholding societal norms and generating revenue for the empire. Operating within the framework of the legal system, fines were administered through the judiciary by village panchayats and higher courts, which assessed and imposed suitable penalties based. The varying amounts of fines were contingent upon a multitude of factors, including the gravity of the offence committed, the individual circumstances of the offender, and the judicial discretion exercised by the court. Apart from their punitive function, fines also acted as a deterrent, discouraging potential transgressions, and contributing to the financial stability of the empire. The administration of fines played a paramount role in fostering social cohesion, preserving order, and upholding the rule of law within the complex socio-political landscape of the Maratha Empire.

# CHAPTER 6

# THE MARATHA LEGAL LANDSCAPE: ASSESSING WOMEN'S STATUS IN THE JUDICIAL SYSTEM THROUGH STATE AND FAMILY DYNAMICS

The position of women within the judicial system of the Maratha Empire was not solely determined by formal legal frameworks but was deeply intertwined with broader socio-cultural structures. This chapter aims to examine the historical and legal contexts to elucidate how the state's legal framework and societal expectations within the realm of family influenced women's access to justice and the exercise of their judicial rights. Within the hierarchical social structure, women were expected to fulfil specific roles primarily centred around family and household duties. However, historical evidence suggests that women in the Maratha Empire possessed a degree of agency and held influential positions within their families.

Despite prevailing patriarchal norms, women in the Maratha Empire played significant roles beyond domestic responsibilities. Some women from noble families exercised political power and actively participated in decision-making processes. They often served as advisors to male counterparts and were involved in statecraft. Additionally, women from non-noble backgrounds engaged in economic activities, managed family finances, and played a crucial role in agriculture.

The legal systems in the Maratha Empire encompassed various codes governing matters of administration and justice. While these legal codes were influenced by Dharmashastra, the ancient Hindu legal tradition, provisions were made to recognize women's rights. Women had the right to inherit property, and in cases of widowhood, they were entitled to a share of their husband's property. The judicial system also provided women with the opportunity to seek redress for grievances through legal channels, although the extent of their participation in the judicial process varied.

Although the judicial system of the Maratha Empire was predominantly male-dominated, women had the right to approach the courts and present their cases. However, their access to justice was influenced by social norms, customs, and the biases prevalent in male-dominated legal institutions. Women's testimonies were considered valid, and they had the ability to appoint advocates to represent their

interests. Nevertheless, their involvement in the judicial process was often mediated through male family members, such as fathers or brothers.

While the Maratha Empire granted legal rights to women, the effective exercise of these rights was often constrained by prevailing patriarchal norms. Women's access to justice depended on their social status, economic resources, and the support of male family members. Nonetheless, instances can be found where women successfully navigated the legal system and advocated for their rights, demonstrating a level of agency and empowerment.

Societal norms and expectations, which are frequently rooted in patriarchal structures, exert significant influence on women's judicial rights. This chapter delves into the social constructions of gender roles, family dynamics, and societal expectations regarding women's behaviour within the judicial system. It examines how traditional gender roles assigned to women and prevailing cultural attitudes shaped their access to justice and influenced the perception of their credibility as witnesses or litigants.

There are several published and unpublished primary sources in the Marathi language and Modi script pertaining to family disputes and cases of domestic violence, as well as unpublished records from Kotwal's office preserved in the Pune archive, which provide valuable insights into the construction of women's subjectivity within the Maratha judiciary. These sources shed light on the social, moral, and legal regulations enforced by the state concerning women, as evidenced by cases related to family disputes, domestic violence, adultery, female slavery, bigamy, forced marriage, widowhood (including widow remarriage), divorce, the selling of daughters by Brahmins, sexual violence against women, informal marriage, polygamy, and dowry. The punishment of women in such cases was based on laws recommended by ancient lawgivers such as Manu, Kautilya, Narada, Vashishta, Apastamba, and Dharam-Sutras. By examining the status of women within the medieval Maratha judiciary and their positions in society, a re-evaluation of conventional studies on medieval Maratha judiciary and gender can be undertaken, potentially offering alternative perspectives.

These documents not only reveal the judicial and ecclesiastical powers of the state but also demonstrate its justification for intervention and decision-making in matters that extend beyond the realm of traditional legal jurisdiction, such as rites, rituals, customs, and household affairs. The state-imposed penalties on individuals who attempted to resolve their issues through penance and community-level arbitration without

informing the state. Consequently, people began bringing their religious and social matters before the court. However, the state's concern was not solely about governing appropriate social behaviour but rather about becoming the sole legitimate arbitrator of social opprobrium. This expanded the state's intervention into the ritualistic and domestic lives of its subjects.

The primary form of censure in these cases was fines (Karar Kela) and, in some instances, penance as well. Offenders often faced dual punishments, both social and legal, as Chhatrapati and Peshwa held judicial as well as ecclesiastical authority over the country. The amount of the fine was determined by the economic status of individuals or households rather than the nature of the offence. Fines ranged from 20 to 20,000 rupees for the same crime. Punishments were largely contextual, and the documents frequently mention moneylenders who provided loans to offenders. These fines contributed to the state's treasury, further expanding its involvement in ritualistic, family, and domestic matters.

Moreover, the records from Kotwal's office, particularly those from the latter half of the 18th century, provide insights into various aspects of women's lives in society, with a particular focus on the family. These records document instances of violence, sexual harassment, suicides, attempted suicides, rape, attempted rape, adultery, and extramarital affairs, which occasionally resulted in unwelcome pregnancies and abortions. Through the regulation of such matters, the Kotwal and the state assumed the role of custodians of social values, further restricting the spheres and roles of women and reinforcing submissive societal images. It is important to note that the state and its officials were not foreign entities with unfamiliar laws and regulations. In Maharashtra, unlike provinces controlled by the Mughals and other regional sultanates, the rulers and the ruled were the same people operating within the prevailing value system, which both rulers and subjects sought to comprehend and interpret. The verdicts of these cases demonstrate that both men and women shared responsibility for women's suicides. Complaints made by women regarding rape or attempted rape were treated seriously, and even non-consensual sex within marriage was considered an offence if a woman filed a complaint. Sexual harassment was also deemed punishable, and convicts were fined according to their financial means.

Nilima Bhave conducted research on the status of women during the Peshwa period, focusing on a selection of randomly chosen cases involving sexual misconduct. Bhave's

findings indicate that women were treated fairly within the Maratha judicial system, and gender discrimination was not evident in these trials.[1]

In Marathi society, the term 'badkarma' or 'sinalki' encompassed various forms of sexual relationships that were deemed illicit by both society and the state. This included cases where both individuals involved were married, as well as instances involving unmarried individuals engaging in premarital sexual relationships, inter-caste and inter-religious sexual relations, and sexual activity by widows, among others.

The punishment for women found guilty of adultery during the Peshwa period varied, but common penalties included penal servitude, enslavement,[2] and fines. In some cases, more severe forms of punishment, such as mutilation, were also practised. However, there were instances where adulterous women were released from punishment if their relatives' provided assurances of their future good conduct or offered a substitute in their place. For example, in the years 1741-1755, a female slave was released when her husband provided another female slave as a replacement.[3] Similarly, in 1754-1755, a Koli woman who had committed adultery was spared the life of a slave due to the intervention of her caste members, but she was required to pay a fine of 50 rupees.[4]

Janaki Lagdin was sentenced to penal servitude at Fort Visapur for committing adultery. In the year 1785-1786, she was released from her sentence after her father provided assurances of her future good conduct.[5] Another case involved the substitution of mutilation for slavery. In the year 1782-1783, Ahili, the wife of Janoji Davra from Dholwad in Prant Junnar, engaged in adultery with Devji Khandoji Chinchvada. Devji was fined, while Ahili was subjected to enslavement and had her nose mutilated as a form of punishment.[6] These cases illustrate that women were primarily subjected to

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[1] Nilima Bhave, *Pesvekalin Striya*, Popular Prakashan, Bombay, 1989.

[2] Anne Feldhaus, ed., *Images of Women in Maharashtrian Society,* State University of New York Press, 1998, mentions merely fine and penance but S.N. Sen informs about the punishments like penal servitude and enslavement for committing adultery. For further information, see, S.N. Sen, *Administrative System of the Marathas,* K. P. Bagchi & Company, Calcutta, 1925, p. 341.

[3] *Selections from the Satara Rajas and the Peshwas Diaries*, Vols. I, eds., D. B. Parasnis, G. C. Vad, and others, Deccan Vernacular Translation Society, Poona, 1906, p. 214.

[4] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. II, p. 67.

[5] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. VIII, p. 108.

[6] Ibid., p. 108.

slavery and penal servitude as punishment for adultery, while men were rarely fined. Mutilation served as a substitute for slavery, serving to stigmatize and construct a negative image of women who committed adultery, with the intention of discouraging other women from engaging in similar acts. Adulteresses who chose penal servitude over slavery were required to engage in arduous labour within fortresses, often involved in construction work. In some instances, they were treated as commodities and sold, much like ordinary articles, from prisons. For example, in the year 1755-1756, a Brahmin named Gangadhar Bhat Karve purchased a female convict for 30 rupees.[7] During the reign of Chhatrapati Shahu I, a man named Shidoji Raut murdered his concubine and cousin after discovering them in the same location in his house. Following the intercession of his brother, Shetyaji, Shidoji was pardoned but was required to perform penance for the murder of his cousin.[8] It is noteworthy that he faced no punishment for killing his concubine, suggesting that the cousin was considered innocent in comparison. This indicates that engaging in sexual relations with a married woman or concubine was deemed an offence for women but not for men. Additionally, no punishment was imposed for the murder of the concubine, implying that a husband could kill his concubine in the event of her committing adultery.

The offence of adultery not only had consequences for the individuals involved but also stigmatized the social standing of their family members. A letter written by Shrinivas Parashram Pratinidhi to the Brahmin community of Karhad provides an example of such a case. The letter informs that the mother of Apaji Ram from Masur was accused of committing adultery and sought refuge in her parental home. As a result, Apaji's ritual status within the community was affected, and he had to perform the Prayaschitta, a form of penance, in order to regain acceptance and be allowed to dine with his caste people. The document emphasizes that Apaji has successfully completed the Prayaschitta and should be admitted into the Brahmin community without any prejudice.[9] In addition to adultery, historical sources also address the issue of slavery in medieval Maharashtra.

Kotwal's papers from 1767 to 1791 provide valuable insights into various acts of sexual misdemeanour, specifically adultery, which were classified under the generic term

[7] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. II, p. 68.

[8] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. I, p. 183.

[9] *Tritiya Sammelan Vritta*, Vols. I – VII, B.I.S.M., Poona, 1835, p. 96.

'badkarma.' Additional terms used to refer to sexual misdemeanour include 'chinali,' 'sindalki,' 'sinalki,' 'badfaili,' and 'badamal.' Although numerous cases of adultery and sexual misdemeanour are documented in these papers, it is noteworthy that offenders were not subjected to punishment but rather fined. For example, in one case, Sakharam Mahadev Daniel, a Brahmin from Sanvarvada, engaged in a sexual relationship with Sohani, a Brahmin widow residing in Sukravarpeth. Upon investigation by Kotwal's office, both individuals were found guilty and fined a sum of 88 rupees and 12 annas.[10] This particular case sheds light on the prohibition of remarriage for Brahmin widows and the prohibition of sexual relations for Brahmin widows.

In another case, Bhagawant Despande had sexual relations with Kasi, the wife of Khandopand Keskar and the daughter of Kesav Bhat. Subsequently, he abandoned her. The document reveals that a fine of 100 rupees was imposed on Despande, while Kasi was not fined.[11] This indicates either Kasi's financial inability to pay the fine or her exclusion from the category of offenders.

Notably, sexual activity before marriage was also considered a sexual misdemeanour, and individuals found guilty of such acts were fined by Kotwal's office in Pune between 1767 and 1791. For instance, Trimbak Mehendale of Sanivarpeth was fined 300 rupees as the money could not be recovered from his sexual partner, Yamuna Kali.[12] Nairobi, a Brahmin cook, was caught engaging in sexual relations with Saguni, a Brahmin woman. Nairobi was fined 45 rupees, while Saguni was fined 22 rupees.[13]

In another suit, a dispute arose between Krsni Angalin, a Brahmin widow, Yemnuni, a Brahmin woman, and Raji, the wife of Manohar Gosavi, and Laksumi, the wife of Nagopant. During the quarrel, the women began revealing each other's sexual affairs. Krsni and Yemuni were summoned to Kotwal's office, where they were required to disclose the names of male adulterers (sinals) known to them. Consequently, they provided the names of their own companions (subhatis) who were involved in such

[10] Feldhaus, *Images of Women in Maharashtrian Society*, p. 35; *Prant Ajmas Pune*, Maharashtra State Archive, Pune, 569, 30-12-77.

[11] Ibid., p. 35; *Prant Ajmas Pune*, 568, 10-4-78.

[12] Feldhaus, *Images of Women in Maharashtrian Society*, p. 35; *Prant Ajmas Pune*, 568, 2-6-75.

[13] Ibid.; *Prant Ajmas Pune*, 569, 28-2-78.

activities. Subsequently, the women whose names were disclosed by Krsni and Yemuni were also summoned and interrogated. During the interrogation, these women provided the names of their own partners in adultery (sinals). The men named by the aforementioned women were also confronted at Kotwal's office, where they admitted to their sexual affairs. As a result, fines were imposed on them.[14] This particular case illustrates that no fines were imposed on the women, suggesting that they were either exempt from fines due to their financial circumstances or were not regarded as offenders. In cases where an offender was unable to pay the fine due to their financial condition, imprisonment for a few days was imposed. Therefore, it can be inferred that Kotwal's office did not treat all female adulterers equally, with some being fined while others were not.

Kotwal's papers provide insights into cases of inter-caste sexual relations or adultery, highlighting the severity of fines or punishments imposed in such instances compared to cases of adultery or sexual misdemeanour within the same caste. It can be observed that the penalties were more stringent when individuals engaged in inter-caste relationships. For example, in one case, Bhikaji, the son of Sadasiv Set Sonar of Narayanpeth, was apprehended by Kotwal's men while leaving the house of Jivi, a married Brahmin woman from Kasbapeth. Jivi managed to escape, and during the interrogation, Bhikaji confessed his intense passion for her, stating that he could not bear to be without her even for an hour (prahar).[15] As a consequence, a fine of 50 rupees was imposed on Sonar.[16] Another case involving Krsni, the wife of Baherji More from Sanvarpeth, exemplifies the transformative power of love in eighteenth-century Pune. Krsni engaged in a romantic relationship with Murari Achyari, abandoning her family life, business, and husband for the sake of love. However, they were both apprehended, punished, and fined 35 rupees and four annas. It is worth noting that in this case of adultery, both the male and female offenders were fined by Kotwal's office. Interestingly, not all female adulterers were treated equally by Kotwal's office. In the case of Janki Sonarin, who had sexual relations with Janrav Desmukh, Janki was fined

[14] Feldhaus, *Images of Women in Maharashtrian Society*, p. 35; *Prant Ajmas Pune*, 571, 4-4-1783.

[15] Ibid.; *Prant Ajmas Pune*, 569, 26-2-78.

[16] Ibid.; *Prant Ajmas Pune*, 569, 26-2-78.

while Janrav, as the Deshmukh, was exempted from the fine.[17] This exemplifies the differential treatment of female adulterers based on social status. Similarly, Vali Vani, a woman from Narayanpeth, engaged in sexual relations with Nariba Brahmin. When they were caught, Nariba managed to escape, and Vali had to pay a fine of 25 rupees.[18] This case of inter-caste adultery highlights the unequal imposition of fines, as the male offender evaded punishment while the woman bore the financial consequences.

In a particular instance, an individual named Ibrahim Gadekari, aged eighteen, engaged in a sexual encounter with a thirteen-year-old individual named Rani Kadam, residing in Ravivarpeth. Under the judicial administration of Kotwal, both individuals were detained and subjected to further investigation. The subsequent inquiry revealed that both parties involved were minors and engaged in the sexual act due to a lack of knowledge or understanding. According to the documentation provided by the clerk of the Kotwal, it was stated that due to the religious affiliation of the boy being identified as Muslim, it was advised to undertake expiation procedures in order to purify the girl (referred to as suddha karavi). Additionally, a monetary penalty of 29 rupees was imposed on the boy, taking into consideration his financial circumstances.[19] In this particular instance, the girl did not receive punitive measures; rather, she was instructed to partake in an ordeal as a means of purification. Conversely, the male counterpart faced a monetary penalty. In a separate instance, Daval Harji Kumbhar from Sukravar Peth engaged in sexual activity with Cimi Musalmanin, who also resided in the same locality. Due to the Muslim woman's financial insolvency, she was granted an exemption, while a sum of 7 rupees and 12 annas was levied as a penalty from the Kumbhar.[20] In the subsequent instance, Rajaji Nararji of Ganeshpeth engaged Amina Musalmanin as his paramour. Rajaji engaged in intimate relations with her, resulting in her pregnancy. During the period of Kotwal Kasi Anandrav's tenure, both individuals were apprehended. Nevertheless, due to Rajaji's position as a governmental official, he received support from the state and managed to secure his release. However, when the

[17] Feldhaus, *Images of Women in Maharashtrian Society*, p. 36; *Prant Ajmas Pune*, 568, 12-8-79.

[18] Ibid.; *Prant Ajmas Pune*, 568, 18-8-75.

[19] Ibid.; *Prant Ajmas Pune*, 568, 10-5-1773.

[20] Ibid.; *Prant Ajmas Pune*, 569, 12-11-1776.

pregnancy had advanced to the final stage of nine months, both individuals were summoned and required to pay a fine of 22 rupees.[21]

In addition, instances of sexual misconduct or unethical behaviour were commonplace matters that fell within the purview of the office of the Kotwal to address. The police and agents under the authority of Kotwal exhibited a preference for apprehending the involved parties in the act of committing a crime rather than relying on cumbersome eyewitness or hearsay evidence. Typically, the commencement of trials or investigations occurred subsequent to the batmidar receiving information from his sources and apprehending individuals in flagrante delicto. The legal cases pertaining to sexual misconduct became so prevalent that Kotwal's documents contain numerous mentions of strategies employed to apprehend individuals engaged in prohibited sexual activities. In a particular scenario, Udaram Sivram from Vaked maintained the presence of Cimi Sahadi, a woman belonging to the Brahmin caste, within his residence and engaged in sexual relations with her. Nevertheless, due to the fact that both individuals were discovered in a state of slumber upon a shared sleeping surface, they were subsequently transported to the central administrative location and subjected to monetary penalties. Given their apprehension in the act, an additional inquiry was deemed unnecessary, resulting in the imposition of a penalty amounting to fifty-five rupees for Udaram and 33 rupees and four annas for Cimi.[22]

In nearly every instance where both parties were fined, it was observed that the fine imposed on women was consistently lower than that imposed on men. This discrepancy in fine amounts suggests that the financial standing of the offender played a significant role in determining the fine, thereby indicating that women generally had weaker economic conditions compared to men. This observation aligns with the prevailing notion that men primarily occupied the economic sphere. However, it is important to note that women also possessed economic status, as evidenced by their ability to pay fines, which implies that they were likely earning income through employment or other means. During the subsequent occurrence, Ramaji Pant from Vetalpeth was apprehended in flagrante delicto during the nocturnal hours engaging in sexual activity with Gangi, the spouse of Janoji Simpi, who also resides in the aforementioned peth.

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[21] Feldhaus, *Images of Women in Maharashtrian Society*, p. 35 ; *Prant Ajmas Pune*, 568, 25-10-1775.

[22] Ibid., p. 36; *Prant Ajmas Pune*, 570, 26-5-79.

Due to their respective insolvency, a nominal fine of 17 and 12 rupees was imposed upon them.[23]

**The Idea of Loyalty Between Husband and Wife**

Within the records of Kotwal's papers, numerous instances can be found documenting cases involving women engaging in sexual relationships with multiple partners. One such case involves Naro Ram, who was reported by the batmidar to have engaged in sexual intercourse with Thaki, the wife of Malhari Bhoi from Sukravarpeth. The illicit encounter between Naro Ram and Thaki was discovered, prompting an interrogation of Thaki. During the course of the interrogation, Thaki divulged the name of another of her paramours, Nandaram Kumbhar. Subsequently, Nandaram was summoned and, upon being interrogated, admitted to his sexual relations with Thaki. As a result, all three individuals were subject to fines imposed by the authorities: Naro Ram was fined 200 rupees, Nandaram was fined 20 rupees, and Thaki was fined 50 rupees.[24]

In a separate incident, Yemuni, the wife of Sivram Brahmin Canada from Akalkot, presently residing in Budhvarpeth, was involved in a consistent sexual relationship with Hemchand Gujrathi. The informant brought forth the accusation that Hemchand, by harbouring Yemuni in his residence, had defiled her. Consequently, Yemuni was summoned, and the allegations were substantiated through evidence. She proceeded to provide a list of the men with whom she had engaged in sexual relations. As a consequence, fines were levied upon these individuals. With the approval of Ramsastribaba, the chief legal authority of Pune, Yemuni was banished across the Godavari River.[25]

**False Accusations**

Kotwal's papers provide information regarding the unfounded allegations and insinuations pertaining to sexual relationships directed towards women. They also indicate that in cases where the accusations were proven to be false, the individual making the false report faced punitive measures and monetary penalties. As an illustration, a written record indicates that on a certain occasion, Bahirji Jadhav visited

[23] Feldhaus, *Images of Women in Maharashtrian Society*, p. 37; *Prant Ajmas Pune*, 570, 4-6-79.

[24] Ibid.; *Prant Ajmas Pune*, 571, 2-5-1783.

[25] Ibid.; *Prant Ajmas Pune*, 570, 5-5-1781.

the headquarters and conveyed the following statement: 'My spouse has developed an affection for Kachi Mali from the locality of Mauje Ghorpadi, and is presently cohabiting with him.' It is imperative that she be summoned and subjected to appropriate disciplinary measures. Consequently, the law enforcement authorities apprehended the individual in question and initiated an inquiry into the situation. However, subsequent investigations revealed that none of the accusations levied by her spouse were substantiated. Consequently, Jadhav, the spouse of the aforementioned individual, incurred a penalty of 15 rupees.[26] However, the document pertaining to this particular case fails to provide an explanation as to why the husband levied a false accusation against his spouse. In a separate incident, Jangali Ahir made allegations against Jamni, the sister of Durga Kumbhar from Ravivar peth, regarding her involvement in a sexual relationship with an individual named Bahya Kubhar. The lack of substantiation for Jangali's evidence resulted in the determination that his accusation was false (khota). Due to his insolvency, a debt bond amounting to 25 rupees was acquired from him.[27] The text does not provide an explanation for Jangali's decision to falsely accuse Jamni. However, a prominent example illustrating the repercussions of making fraudulent allegations is evident in the Sonars of Pune case. In this particular instance, the batmidar, who serves as a government-designated informant, reported that the spouse of Bajaji Sonar from Sukravarpeth was involved in the act of adultery, commonly referred to as 'Chinali keli.' Consequently, both the wife and her husband were apprehended, although the proceedings failed to substantiate the charge of adultery. After the false accusation of batmidars, a collective fine of 403 rupees was imposed on the individuals involved. Specifically, Bhau Sonar of Budhvarpeth was fined 250 rupees, Gangaram of Sukravarpeth was fined 53 rupees, Gopalji Sonar of Sukravarpeth was fined 50 rupees, and Trimbakji and Pandu Sonar of Sukravarpeth were each fined 50 rupees.[28] The omission of an explanation regarding the motives behind the fabrication of false accusations by these individuals has been observed on another occasion. If we were to establish a connection between these events based on the prevailing social beliefs of that era, it could be inferred that the reputation of a

[26] Feldhaus, *Images of Women in Maharashtrian Society*, p. 37; *Prant Ajmas Pune*, 569, 28-4-1778.

[27] Ibid.; *Prant Ajmas Pune*, 571, 2-5-1783.

[28] Ibid.; *Prant Ajmas Pune*, 569, 27-5-1778.

family was heavily reliant on the conduct of its female members. Consequently, it was relatively simple to tarnish a family's reputation by levying false allegations against a woman belonging to that family. The aforementioned instances represent cases where such false accusations were proven to be unfounded.

During the medieval period in Maharashtra, specifically in Pune from 1767 to 1791, it was socially and culturally unacceptable to engage in premarital sexual relations, commit adultery, or for widows to engage in sexual activities. In all of these instances, sexual activity was regarded as illicit or a misdemeanour. The outcomes of these cases played a significant role in shaping women's societal roles, legal rights, designated domains, and responsibilities while also influencing the perception and self-perception of women.

**Unwelcome Pregnancies**

Kotwal's papers provide information regarding instances wherein women became pregnant due to engaging in Badkarma, which refers to acts of sexual misconduct. These documents prove that in cases where a woman who was married (and committed adultery), separated, widowed, or single engaged in actions that resulted in pregnancy, she and her male lover or partner were deemed culpable. Consequently, they were subject to fines commensurate with their respective financial circumstances. The majority of instances involving Badkarma leading to pregnancy pertain to extramarital sexual indiscretions, primarily occurring within the confines of the same caste.[29] However, the occurrence of unwanted pregnancies resulting from sexual relations was

[29] Feldhaus, *Images of Women in Maharashtrian Society*, p. 38; For the instances of pregnancies (under adultery) took place within the same caste or intercaste relationships; see Krsna Kumbhar and Dayal Kumbhar, *Prant Ajmas Pune*: 573, 30-4-86 to 28-5-86; Biro Chaparband and Bala Chaparband, *Prant Ajmas Pune*: 569, 17-2-79; Lakshmi Paritin and Tota Parit, *Prant Ajmas Pune*: 573, 29-5-86 to 4-6-86; Damaji Parit and Gangi Paritin, *Prant Ajmas Pune*: 568, 29-8-72; Bhagiya Kachin and Lachiram Kanchi, *Prant Ajmas Pune*: 568, 18-5-76; Nuran Bhisti and Mirkhan Bhisti, *Prant Ajmas Pune*: 573, 4-11-85 to 3-12-85; Lavla Telin and Chatu Tell, *Prant Ajmas Pune*: 569, 18-11-78; Maini Jingar and Narayan Jingar, *Prant Ajmas Pune*: 570, 6-2-80; Mahto Agarvala and Rupchand Agarvala, *Prant Ajmas Pune*: 572, 30-8-83 to 27-9-83; Pema Kumbhar and Sundari Kumbhar, *Prant Ajmas Pune*: 569, 17-12-78; Bhagiya Kachin and Lachiram Kachi, *Prant Ajmas Pune*: 568, 18-5-76; Santu Mali and Sagi Malin, *Prant Ajmas Pune*: 568, 21-1-76; Krsna Gauli and Lalva Gauli, *Prant Ajmas Pune*: 19-4-76; Nandaram Lodhi and Paca Lodhi, *Prant Ajmas Pune*: 573, 12-2-86.

not solely attributed to intra-caste interactions but also extended to inter-caste[30] and inter-religious encounters. Nevertheless, in instances where pregnancies are a result of extramarital affairs. In instances of extramarital relationships, there existed a range of implications, including the establishment of the child's biological father, the legal standing of the child, determination of parental ownership, provision of child care, and other matters pertaining to guardianship. However, the aforementioned concerns have not been acknowledged or discussed in the synopses or data on transgressions presented in Kotwal's publications.

In instances of Badkarma resulting in pregnancy, males and females were deemed culpable and subject to a monetary penalty. However, on certain occasions, men assumed responsibility for paying both their fines and that of their female partners.[31] M In the majority of cases, both males and females were responsible for paying their respective fines.[32] In instances of this nature, women occasionally procured funds from local financial institutions, relatives, acquaintances, and supporters to settle their fines.

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[30] Feldhaus, *Images of Women in Maharashtrian Society*, p. 38; For the cases of Badkarma which caused pregnancies as a result of intercaste extramarital relationships, see, Ganga Halvain and Gangadhar Bhat Dhere, *Prant Ajmas Pune*: 571, 20-8-81; Khusal Vani and Gangi Telin, *Prant Ajmas Pune*: 568, 3-6-76; Laksmi Malin and Sangali Jain, *Prant Ajmas Pune*: 568, 20-6-75; Darki Khatik and Duran Brahmin, *Prant Ajmas Pune*: 571, 11-8-82 to 8-9-82; Chintaman Tell and Kuvarin Lodhin, *Prant Ajmas Pune*: 571, 11-8-82 to 8-9-82; Devi Rathod and Hira Narayanbhat, *Prant Ajmas Pune*: 571, 17-12-81 to 15-1-82.

[31] Feldhaus, *Images of Women in Maharashtrian Society* p. 38; For the cases of Badkarma which caused pregnancies in which male partner paid the fine of their women partners as well, see, Khandu Pavar and Saguni, *Prant Ajmas Pune*: 568, 20-6-75; Gangaadhar Dhere and Ganga Halvain, *Prant Ajmas Pune*: 570, 23-7-81 to 20-8-81; Narsa Lohar and Janki Lohar, *Prant Ajmas Pune*: 570, 28-1-80; Gangapa Badhai and Biriya Badhai, *Prant Ajmas Pune*: 568, 28-9-72; Vasoba Hamal and a Kunbi woman, *Prant Ajmas Pune*: 568, 15-2-70; Kesav Paithankar and Radhi Tailang Brahmin, *Prant Ajmas Pune*: 569, 28-2-78.

[32] *Ibid.*, p. 38; For the instances of men and women both paid the fine in the cases of Badkarma which caused pregnancies, see, Rajaji Nagarji and Amina Musalmanin, *Prant Ajmas Pune*: 568, 25-10-75; Mathura Patode and Harbaji Pantoji, *Prant Ajmas Pune*: 575, 5-4-91 to 2-5-91; Khusal Vani and Gangi Telin, *Prant Ajmas Pune*: 568, 3-6-76; Bhagiya Kachin and Lachiram Kachi, *Prant Ajmas Pune*: 568, 18-5-76; Thaki Lonarin and Kalya Lonari, *Prant Ajmas Pune*: 573, 18-8-84 to 16-9-84; Devi Rathod and Hira Narayan Bhat, *Prant Ajmas Pune*: 571, 12-12-81 to 15-1-82; Keroji Sutar and Yemuni Sutar, *Prant Ajmas Pune*: 571, 15-4-81 to 13-5-81; Puranmal Mahot and Laksmi Badhai, *Prant Ajmas Pune*: 569, 4-6-79; Raghunath Gholap Langda and Sall Mhaska, *Prant Ajmas Pune*: 569, 5-5-79; Lakseman Kirad and Lachiya Kirad, *Prant Ajmas Pune*: 569, 8-11-78; Gangi Kunbin and Laksman Sonar, *Prant Ajmas Pune*: 568, 7, 11-9-75; Lalba Tell and Chatu Telin, *Prant Ajmas Pune*: 569, 18-11-78.

Periodically, the leaders of the castes to which fenders were affiliated would make payments in the form of fines.[33] Indeed, it is worth noting that on rare occasions, the intervention of prominent individuals has led to the waiving of fines.[34] As an illustration, it is worth noting that Durlabset, a prominent banker during the late eighteenth century in Pune, demonstrated his influence by interceding on behalf of Jaman Baganin and Saha Mahamad, successfully securing their exemption from the payment of fines. In a similar vein, Parsuram, a renowned banker hailing from Pune, intervened on behalf of Mulsa Phakir and a Muslim homemaker.[35] There were instances where men incurred higher fines than women,[36] while in other cases, women were subject to greater fines than men.[37]

Kotwal's research findings indicate that in instances of unwanted pregnancies, male perpetrators often evaded legal consequences by fleeing, motivated by the desire to evade financial penalties and the fear of public exposure as the individuals responsible for impregnating the women involved. In instances of unwanted pregnancies, female offenders fulfilled their financial obligations unless they were financially incapable or experiencing severe psychological distress. Kotwal's research papers categorize male offenders involved in instances of unwanted pregnancy, where they failed to fulfil the required monetary penalty, as 'chinal' (adulterer). This terminology suggests that the women involved in such cases (where the male offenders did not pay the fine) were predominantly married, and the occurrence of unwanted pregnancy was attributed to

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[33] Feldhaus, *Images of Women in Maharashtrian Society*, p. 39; for the cases in which the head of the caste paid fine, see, *Prant Ajmas Pune*: 570, 24-4-80 (In this case Mayaram Chaudhary, the headman of the caste, paid the fine of Kalva Chaparbandh by soliciting funds from the group of Chaparbandhs); *Prant Ajmas Pune*: 569, 11-9-76 (in this case Rahiman Jamatdar paid the finef Sultanin Muslim of his Jamat)

[34] Ibid., p. 39.

[35] Feldhaus, *Images of Women in Maharashtrian Society*, p. 39; *Prant Ajmas Pune* 569, 18-4-79; *Prant Ajmas Pune* 570, 6-3-80.

[36] Ibid., p. 39; For more information, see, *Prant Ajmas Pune*: 571, 20,-9-81 (in this case Kanya Chaparband pald 33 rupees and four annas and Maini (woman) paid seven rupees and four annas); *Prant Ajmas Pune*: 573, 16-10-84 (in this case, Jagthap Gauli paid 112 rupees and eight annas while the woman Sendgi paid 36 rupees); *Prant Ajmas Pune* 568, 19-8-72 (in this case, Damaji Parit, man, paid 50 rupees and Ganga Paritin paid 9 rupees); *Prant Ajmas Pune*: 569, 16-5-78 (in this case, Sundar Badhai, man, paid 54 rupees and 12 annas and Jagiya Badhai, woman, paid 14 rupees and five annas).

[37] Ibid., p. 39; *Prant Ajmas Pune*, 570, 5-5-80, in this matter of Dongru Katari and Maini Katari. Maini, the woman, paid 88 rupees and eight annas as a fine, while Dongru paid 42 rupees' fine.

acts of adultery. The Kotwal encountered difficulties collecting fines from individuals who frequently evaded capture, could not be located, were reported missing, were currently serving in the military, or had departed for their respective villages, towns, or countries. Additionally, some individuals were absent, escaped, or had passed away, further complicating the process of extracting fines from them.[38]

**Female Slaves**

Based on the examination of historical documents, S.N. Sen argues that masters in Maharashtra engaged in respectful correspondence with their slaves, implying that slaves were subjected to favourable treatment.[39] There exist historical records that detail the adverse treatment endured by enslaved individuals. Several examples of their favourable treatment include their liberation during festive occasions and their acquisition of property. Instances can be found wherein slaves have sought to secure their release by offering appropriate replacements. During the years 1773-1774, Fuli and Tulsi, female slaves belonging to the state, procured two additional female slaves with the intention of securing their freedom from slavery.[40] In comparison, the treatment of state-owned slaves was relatively more favourable when compared to slaves owned by individuals. During the period of 1762-63, the state allocated a sum of 1303 rupees specifically designated for the provision of clothing to female slaves during the Dasera festival.[41] Additionally, the report by Jenkins provides information regarding the improved treatment of enslaved individuals under the ownership of individuals residing in Nagpur. According to the author, individuals who are purchased

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[38] Feldhaus, *Images of Women in Maharashtrian Society*, p. 39; in following instances, the woman's name appears first in this list, *Prant Ajmas Pune*: 568: 20-6-75 (Ganga Malin and Santaji jain, gone to the army); *Prant Ajmas Pune*: 568, 17-11-75 (Ganga Malin and Durgadas Marwadi, absconded); *Prant Ajmas Pune*: 568, 19-4-76 (Ganga Gauli and Lalva Gauti, absconded): *Prant Ajmas Pune*: 572, 30-8-83 to 27-9-83 (Mahto Agarvala and Rupchand Agarvala, left the country); *Prant Ajmas Pune*: 571, 2-5-83 (Rakmin Gujrathi and Trimbak Seth, absconded); *Prant Ajmas Pune*: 13-6-82 to 11-7-82 (Maini Chavhan and Kedarji Siledar, could not be located); *Prant Ajmas Pune*: 571, 13-7-82 to 10-8-82 (Tabi Vadekar and Chandu Chadvalikar, became absent); *Prant Ajmas Pune*: 571, 9-9-82 to 8-10-82 (Bhagi Savant and Sadasivram, escaped); *Prant Ajmas Pune*: 571, 11-8-82 to 8-9-82 (Darki Khatik and Duman Pardesi, died); *Prant Ajmas Pune*: 573, 1-4-86 to 29-4-86 (Maini Jadhav and Manaji Nail Jasud, found missing); *Prant Ajmas Pune*: 569, 7-1-77 (Godhi Malin and Govinda Mali, not traceable).

[39] Sen, *Administrative System of the Marathas,* p. 335.

[40] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. VIII, p. 249.

[41] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. VII, p. 318.

as slaves are typically raised within the households of their buyers, primarily serving as domestic workers. Furthermore, it is not uncommon for them to be provided with comparable provisions of nourishment and attire as the children of their masters. Typically, individuals are subjected to compassionate and thoughtful treatment.

No evidence has been discovered regarding the documentation of male slaves in Maharashtra, except for a report highlighting the presence of male slaves in Nagpore. Jenkins notes that it is not unusual for individuals without biological children to adopt their slaves as their sons and bequeath their assets to them upon their demise.[42] The speaker referred to male offspring, specifically sons, and it is a well-documented fact that daughters were not entitled to inherit their parents' property. This observation highlights the presence of male slaves in Nagpore, distinguishing it from other regions in Maharashtra. In addition to Jenkins, Broughton, in his work titled 'Letter from a Mahratta Camp,' provides insights into the favourable circumstances experienced by slaves in various regions within the Maratha empire.[43] In addition to adultery and slavery, the judicial records discuss the matter of conjugal infidelity, specifically addressing bigamy and forced marriage. These issues were of significant importance in the context of family and domestic matters, as they played a crucial role in shaping women's subjectivity and their associated responsibilities.

**Justice and Judicial Proceedings on Bigamy**

During that period, polygamy was not considered a criminal act for men in Maharashtra, India. However, the idea of a woman engaging in bigamy was deemed inconceivable. In certain cases, it was permissible for men to enter into polygamous marriages, while women and girls were restricted from remarrying, even in the event of their husband's death. There exist certain instances in which a woman or girl engaged in the act of bigamy, and these circumstances indeed resulted in certain repercussions. During the period of 1752-53, Dhondji Mali of Sinnar was absent from his residence, resulting in his father-in-law, Bapuji Mali, arranging the marriage of his daughter to Nimbaji Vallad Yesu Jhagda, a resident of the same village. However, Nimbaji neglected to inquire about Dhondji's vital status prior to his marriage to the young woman. Consequently,

[42] Richard Jenkins, *Report on the Terretories of the Rajah of Nagpore: Submitted to the Supreme Government of India*, Govt. Gazette Press, Calcutta, 1826, p. 63.

[43] Thomas Duer Broughton, *Letter from a Mahratta Camp*, *during the Year 1809*, Archibald Constable and Company, Westminster, 1892, p. 75.

he incurred a penalty of 80 rupees.[44] This finding indicates that it was considered a transgression for a man to enter into matrimony with a woman who was already married. Imprisonment was the prescribed penalty in instances of bigamy in other cases. During 1770-71, Bhui Bai Vyas, a Brahmin woman, arranged two marriages for her daughter, resulting in the subsequent imprisonment of the entire family, consisting of the mother, daughter, and son, at Shivner.[45] In this particular instance, the individual who entered into matrimony with Bhui's daughter did not face any punitive measures. The young male, who was the offspring of Bhui, was subjected to punishment despite not having committed any crime.[46] His observation also implies that a married man has the potential to enter into another marriage, whereas a married woman does not possess the same opportunity to remarry.

In certain situations, such as the extended and ongoing absence of the husband resulting in the wife's loss of financial support, it may be permissible for a married woman to enter into a subsequent marriage. An example of such a matrimonial union can be observed within the correspondence documented in the Daftar of Chhatrapati Shahu I. Godji Gaikwad, the Patil of Mauja Bahuli, Tarf Muthekhore, conveyed to Huzur that Jani, the daughter of Manaji Ghorepada Patil of Soyagaon, had been wedded to Jotyaji Savant of Kasba Dahigaon. Jotyaji, however, departed from her presence. The individual in question patiently awaited her companion's return for approximately ten to twelve years, yet regrettably, he did not reappear. Meanwhile, the demise of her parents occurred, leaving her without any familial support from her husband's relatives. Consequently, she proceeded to approach the Chhatrapati and apprise him of her current status. Subsequently, the Chhatrapati issued a written decree, commonly referred to as a Patra, instructing her to enter into matrimony once again in accordance with the prescribed Pat rituals. Upon her arrival at Muthekhore, she proceeded to apprise the various officials, namely Deshmukh, Deshpande, and Gota, regarding the aforementioned directive. According to Pat rites, Godji Gaikwad was married to her, similar to Jani, who also requested the Chhatrapati for an Abhayapatra as evidence for

[44] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. II, p. 69.

[45] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. VI, p. 211.

[46] It was one of the drawbacks of Maratha system to prison innocent children and helpless wives of convicted persons and absconding offenders to overawe them. For further information about it, see, *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. VI, pp. 203-204; *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. VII, p. 204.

future reference. This action was deemed offensive, as it involved a man marrying an already married woman.[47]

In addition, the judicial documents also provide insights into the matters and regulations pertaining to widows, which varied depending on the social background, specifically the caste, of the family. The regulations and issues discussed were subjective in nature, as they varied among different castes, each having its own distinct rituals and customary regulations. These variations played a crucial role in domestic affairs. The regulations pertaining to widows were diverse, and they played a significant role in shaping widows' rights, responsibilities, duties, and societal perceptions, which were contingent upon their respective castes. These documents exemplify the process of constructing subjective subjectivity among widows.

**Woman as a Widow**

Communities utilized customs pertaining to women as a means to uphold and enhance their social standing, often resulting in the infringement upon women's rights and subjectivity. During the years 1789-1790, a complaint was lodged by the Brahmins alleging that the Prabhus were clandestinely engaging in the observance of Brahminical rituals. In response to this, Peshwa Madhav Rao II issued an order outlining the regulations established by the state to distinguish between the practices of the two groups and reinforce the privileged position of the Brahmins. The Prabhus were instructed to refrain from adhering to the rituals traditionally observed by the Brahmin community. The various regulations stipulated that the remarriage of any willing widow belonging to the Prabhu caste was not to be opposed, as Brahmin widows were traditionally prohibited from remarrying.[48] The evidence suggests that Prabhus adhered to the Brahminical tradition of prohibiting widows from remarrying. While allowing widows to remarry within non-Brahmin communities improved the quality of life for widows, non-Brahmins also sought to adopt this practice to align themselves with

[47] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. 1, p. 218.

[48] The Brahmin of Kasba Pen in Pargana Sakse came to the Huzur Madhav Rao II and complained that the Prabhus did not behave accordingly to the regulations formerly made by the administration of the late Peshwa Narayan Rao about their religious conduct and secretly celebrate the Brahmin rites. After the enquiry, an order was passed which mentions regulations taken during the period Peshwa Narayan Rao, Of these regulations, last one was related to the marriage of widow, for further information about the regulations, see, *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. 1, pp. 287-2923.

Brahmins. The primary focus was on enhancing the community's social standing rather than improving women's status. Both the Brahmin and Prabhu communities faced challenges in their efforts to strengthen their positions, which inadvertently affected the predicament of women. The act of performing a rite was imbued with sacred significance when it was universally observed, whereas certain communities, when denied the opportunity to engage in such practices, ascribed social importance to them. This case examines the involvement of the state in matters pertaining to rituals. In addition to the customs and rituals associated with widows, historical documents address the mistreatment of women. These documents have played a role in shaping women's subjectivity and defining the limits and domains within which they were expected to operate.

**Violation Against Women**

Numerous instances exist that relate to cases of violation against women. One such example is –

> *Sambhaji Angre Sarkhel, in a respectful communication, informed the knowledgeable Brahmans well-versed in the Vedas, Shastras, and the Dharmadhikaris of Kasba Karhad about an incident involving Savitri, the wife of Purushottam Palsura from Dhopeshwar in Tarf Rajapur. While travelling to her mother's house in the village of Rayepatan, Savitri was violated by a man named Malik Abdala, who belonged to the Muslim community. After returning home, Savitri reported the incident to her family, and a written complaint was submitted to the headquarters at Vijaydurg. As a result, Malik Abdala was apprehended and brought before Huzur, where he was executed for his crime. In light of the circumstances and Savitri's plea, the authorities agreed that she should undergo a Prayaschitta (atonement) at the sacred site of Karhad in the presence of Brahmans. Upon successful completion, she would be reinstated into her caste and granted the right to dine with her fellow caste members and enjoy other customary privileges. The purpose of this letter was to seek guidance from the Brahmans in prescribing the appropriate Prayaschitta, in*

*accordance with the teachings of the Shastras, and to provide Savitri with a letter certifying her reintegration into her caste in Prant Rajapur.*[49]

This evidence reveals that a woman who experienced violation was regarded as impure and faced social ostracism from her caste community. Undergoing a prescribed Prayaschitta ritual, as stipulated in the Shastras, was a prerequisite for her reintegration into caste rituals.

In other instances of violation, a woman from a lower caste was targeted by an assailant but was rescued by a passerby. Despite her innocence and purity, she faced social exclusion. However, she was required to take a solemn oath affirming her innocence and undergo purification rituals at a Sangam. Subsequently, she received a Shuddhapatra, a document acknowledging her innocence, and was publicly honoured by the state.[50] In addition to cases of violation against women, the judicial records provide insights into the practice of polygamy, which shaped women's subjectivity and emphasized their role in procreation for their in-laws. While other factors contributed to the practice of polygamy, the infertility of a man's wife often served as a primary reason.

**Justice, Trial and Proceedings for Rape**

Kotwal's historical documents provide insight into cases of rape. The majority of rape and attempted rape cases brought before Kotwal's office involved individuals from the same caste (jati), often within extended families. Analysis of these documents reveals that the state generally took action in rape cases through two means:

- a) When the state's batmidars paid informants, agents, and intelligence gatherers learned of the case through their sources and reported it to the higher authorities, such as Cavri or Cautra.
- b) When the rape victim herself lodged a complaint at the police station and provided a written statement upon being summoned. Thorough interrogation and investigation were customary procedures in Kotwal's office to arrive at a

[49] *Tritiya Sammelan Vritta*, BISM, pp. 93-94. The original document was discovered in the house of the Dharmadhikari of Karhad by Mr. V.K. Rajwade, and had been published by Mr. Datto Vaman Potdar in the reports of the Bharat Itihas Sanshodhak Mandal.

[50] Ibid., p. 97.

judgment. It is important to note that in most rape cases, the responsibility was attributed to the male perpetrator

However, Kotwal's papers do not offer detailed descriptions of the rape incidents or the specific police procedures employed during the investigations. The cases are often mentioned in the form of routine summaries. Therefore, the Rangaris case stands out as a significant example for understanding the meticulousness of the legal procedures followed by Kotwal's office or Cavri. According to an informant's report, Krasnaji, the son of Keso Javle, was accused of raping his daughter-in-law, Rakhmi, the wife of Sakharam Java Rangari from Budhvarpeth. Rakhmi was summoned to the police station, where she underwent interrogation and provided a written statement detailing the rape perpetrated by her father-in-law. Subsequently, Krasnaji was also summoned and denied the allegations. Upon further inquiry, Rakhmi testified in writing as follows:

*After the rape, I trembled and sought solace by staying close to my sister-in-law, Sakhri, who was sleeping nearby. The next day, while fetching water, I confided in the wife of Davji Rangari about the rape.' Krasnaji underwent additional interrogation and stated, 'At night, while going out to urinate, I stumbled and accidentally touched Rakhmi's breasts. I informed Davji Rangari about this incident.' Davji Rangari's affidavit confirmed this statement. Krasnaji continued, 'I then approached Sajya Rangari of Budhvarpeth and pleaded with him, saying, 'I am innocent of this act. You are the saviour of my family. My daughter-in-law is falsely accusing me (tuphan ghete).'' Sajya's affidavit verified this statement. Subsequently, Kotwal named Ghasiram and his official visited the location where the incident occurred to examine its surroundings, determining it to be hazardous to cross. However, Krasnaji's son, Sakharam, Rakhmi's husband, stated that he was not present in the house during the incident as he had slept elsewhere. Rakhmi's statement corroborated Sakhri's testimony, her sister-in-law (nanand). Krasnaji was brought to Cautra, the*

*headquarters, where he underwent further interrogation, and his guilt was established. As a result, he was fined.*[51]

In this particular case, despite evidence suggesting that the location of the alleged rape was hazardous, Kotwal and his officials gave the testimonies of the victim and the rapist's son and daughter more weight. The victim's account was especially trusted, even though it went against procedural law.

The victim's account was especially trusted, even though it went against procedural law. Other cases of rape mentioned in Kotwal's papers are not described in detail. For example, Golabkhan, son of Husenkhan from Vetalpeth, raped his daughter-in-law, who subsequently resorted to consuming poison. Golabkhan was found guilty and paid a fine.[52] In another instance, Antoba, the son of Gangadhar Naik Sevale, raped a seven-year-old girl, the sister of Ramaji Sukla, and fled. As Antoba could not be found, the responsibility was placed on his father, Gangadhar, who was apprehended and fined 100 rupees.[53] This case involved the rape of a child. Another case involves the rape of a nine-year-old girl. Rupalji, the son of Govind Malji Pandhra Mali from Sukravarpeth, raped Uma, the daughter-in-law of Yesi Malin from the same area. Rupalji was arrested, found guilty, and punished with a fine, and the *gunehgari* was taken from him.[54]

In the case of Pralhad Pardesi, he was acquainted with a woman named Nandi Lodhin and had previously engaged in consensual sexual relations with her. However, Pralhad Pardesi proceeded to rape Nandi Lodhin. She filed a complaint against him at the chavri (police station), leading to his summons and subsequent interrogation. During the interrogation, Pralhad admitted to being infatuated with Nandi and having engaged in sexual intercourse with her without her consent for two months, twice a day, during daylight hours. Both parties were fined, with Lodhin being fined for engaging in an affair with Pralhad. Despite their previous relationship, forced sexual intercourse, or rape without consent, was recognized as an offence by the state. In such cases, women had the right to approach the chavri or chautra (police station) and file a complaint of

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[51] Feldhaus, *Images of Women in Maharashtrian Society*, p. 28, *Prant Ajmas Pune*, 573, 8-7-1785 to 6-8-1785.

[52] Ibid., p. 29; *Prant Ajmas Pune*, 570, 6-3-1780.

[53] Ibid.; *Prant Ajmas Pune*, 568, 30-7-1773.

[54] Ibid.; *Prant Ajmas Pune*, 568, 7-7-72.

rape, resulting in punishment for the male perpetrator, regardless of their previous relationship.[55]

Furthermore, it is evident that rape was recognized even within the context of a husband-wife relationship. An instance involving Jugraj Pardesi from Ganeshpeth illustrates this. Jugraj had a dispute with his wife, Laksmi, and remarked, 'You are my daughter, and I am like a father to you.' The following day, he engaged in sexual intercourse with her without her consent. Laksmi lodged a complaint at the Chatra, and her claim was substantiated upon investigation. Jugraj was found guilty of raping his wife and subsequently fined. This case demonstrates that wives had the entitlement to approach the chavri or chautra (police station) and lodge a complaint regarding coerced sexual intercourse perpetrated by their husbands. As a consequence, the husband would be subject to a substantial monetary penalty.[56]

Rape cases often resulted in additional complications such as unwanted pregnancies and abortions. Mathi, the wife of Sultanji Kadam from Virvel in Prant Kadepathar, underwent an abortion after becoming pregnant. Mathi was apprehended and interrogated, during which she stated in her deposition, 'My brother-in-law, Babaji Kadam, raped me, and I became pregnant.' Babaji fled when summoned to the Chavdi. Mathi was fined for the abortion, highlighting that abortion was criminalized regardless of whether it resulted from rape.[57]

In another case, Nandi Martin from Aditvarpeth became pregnant out of wedlock and had an abortion. Investigation revealed that Chotia Parit was the perpetrator who raped her and caused the pregnancy. As a result, fourteen rupees were collected from Nandi for the abortion, twenty rupees from Chotia Parit, and five rupees and eight annas from Nathi Beldarin for performing the abortion. Chotia Parit's fine was proportionally higher than that paid by Nandi, underscoring the greater severity attributed to the crime of rape. Additionally, it should be noted that in this particular case, the complaint of rape was not filed at the Chavdi, which was the standard procedure in such crimes.[58]

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[55] Feldhaus, *Images of Women in Maharashtrian Society*, pp. 29-30, *Prant Ajmas Pune*, 570, 12-8-79.

[56] Ibid., p. 30; *Prant Ajmas Pune*, 568, 18-2-76.

[57] Ibid.; *Prant Ajmas Pune*, 572, 23-2-84 to 22-4-84.

[58] Ibid.; *Prant Ajmas Pune*, 568, 11-9-75.

**Justice and Judicial Proceedings in Cases of Attempted Rape**

In the realm of law, attempted rape was treated with equal seriousness as actual rape. This is evident in the following cases. In one instance, Laldas Bairagin of Bhavanipeth was reported to be raping Ramkuvar Bargain. Laldas was subsequently arrested and, upon investigation, found guilty.[59] Similarly, the batmidar reported an incident involving Tima Sadival, who was attempting to rape Hanmi, the wife of Kaincya Kamathi from Ravivarpeth. Hanmi, upon apprehension and interrogation, stated, 'Tima was attempting to engage in sexual activity with me, but I resisted, albeit lifting my legs.' As Hanmi failed to report the rape to the Chavdi (police station), she was also subjected to a fine. This highlights the requirement that attempted rape, like rape itself, should be reported to the authorities to absolve the victim of any wrongdoing. Hanmi's failure to do so resulted in her and the perpetrator being fined.[60] Another case involves Narotam Mali Padres of Ganespeth, who took his wife and a labourer to Vadvadi's mango orchard. The labourer attempted to rape Narotam's wife, prompting her to raise the alarm. The incident was reported to the Chavdi, leading to the arrest and fine of the labourer.[61]

Furthermore, several courageous women emerge in the records as they resist attempts of rape. For instance, Harji Kumbhar Chadhari of Sukravarpeth attempted to rape his elder brother's wife, Same Kanhoji Kumbhar. However, she stood her ground and resisted his advances. Subsequently, he falsely accused her of having an affair with her deputy, Bala Bhoi. Upon the batmidar's report, Bala Bhoi was arrested and interrogated, declaring, 'I am prepared to face judgment as an offender of the state if there is evidence supporting the allegations against me.' Harji Kumbhar was summoned and interrogated, and his testimony was found to be false, resulting in a fine. The woman and the accused man, Bala Bhoi, were exonerated through the state's investigation.[62] In another case, Ganoji Sonar of Somvarpeth attempted to rape the wife of Sakru Sonar. However, the woman resisted his advances and handed him over to the

[59] Feldhaus, *Images of Women in Maharashtrian Society*, p. 31, *Prant Ajmas Pune*, 568, 3-6-73.

[60] Ibid.; *Prant Ajmas Pune*, 573, 11-5-85 to 4-6-85.

[61] Ibid.; *Prant Ajmas Pune*, 568, 17-6-73.

[62] Feldhaus, *Images of Women in Maharashtrian Society*, p. 31, *Prant Ajmas Pune*, 572, 26-12-83 to 13-1-84.

Chavdi, refusing to acquiesce in the act. Ganoji was declared an offender and fined accordingly.[63]

Two additional cases involved detected attempted rapes and subsequent punishment for the perpetrators. Chedi Bhoi of Vetalpeth entered the house of Gangiya, the wife of Bhakti Kahar Bhoi, with the intent to rape her. He held her hands down and locked the door but released her upon her screams. The incident was reported by the batmidar, leading to Chedi Bhoi's apprehension and admission of guilt in writing. Consequently, a fine commensurate with his financial condition was imposed. [64] In another case, Parvati Kachi of Vetalpeth caused a commotion, accusing Mohana Kachi of Vetalpeth of attempting to rape her. Both individuals were apprehended, and the investigation revealed that sexual intercourse had not taken place but that Mohana had attempted to force her into the act. As a result, the widow Parvati was released, while Mohana was fined.[65]

**Justice and Judicial Proceedings on Sexual Harassment**

The records from Kotwal's office demonstrate that any form of sexual harassment was considered a grave legal offence warranting punishment, often in the form of fines. Several cases exemplify this approach. In one instance, Chintaman Jose Athavle Islampurkar visited Tulsi Batik's house and made advances towards Kusi, the wife of Piraji Pavar. In the darkness, he held Kusi's hand, prompting her to call for help. The incident was reported by the batmidar, leading to a substantial fine of nearly four hundred rupees imposed on the Brahmin offender.[66] Another case involved a Sonar man who approached Maini Golaknin's house and propositioned her daughter, asking about the price for a sexual encounter. As a consequence, he was fined.[67] Similarly, Rama Chamber Katai proposed immoral conduct to Saguni, the wife of Male Pavar, by presenting her with a blouse piece. He was apprehended and subjected to a fine.[68] In

[63] Feldhaus, *Images of Women in Maharashtrian Society*, p. 31, *Prant Ajmas Pune*, 567, 17-11-68.

[64] Ibid., p. 32; *Prant Ajmas Pune*, 568, 17-6-73.

[65] Ibid.; *Prant Ajmas Pune*, 568, 17-6-73.

[66] Feldhaus, *Images of Women in Maharashtrian Society*, p. 32, *Prant Ajmas Pune*, 570, 28-11-80 to 27-12-1780.

[67] Ibid.; *Prant Ajmas Pune*, 568, 13-10-1770.

[68] Ibid.; *Prant Ajmas Pune*, 570, 27-3-1781 to 25-4-1781.

another instance, Gangaram Gayavalnar of Narayanpeth enticed Thaki, the wife of a Yemeni, with the promise of a meal at his house. Once there, he attempted to engage her in sexual activity. Thaki informed her husband, Yemaji, who confronted Gangaram and demanded a gift of pan-supari (betel nut and leaves) to avoid reporting him to the *Chavdi* (police station). To silence Yemaji, Gangaram offered him three rupees worth of tobacco. However, when the Chavdi became aware of the incident, Yemaji was detained and interrogated, and the goods given by Gangaram were confiscated.[69] In yet another case, Kayemkhan, the son of Nurkhan Vaidya, provided medication to Ganga More. One day, he asked her if she would be his attendant, but she declined the offer. He then approached her, stating his intention to visit her house in the darkness of night without others knowing. Upon investigation, it was established that he had made improper advances towards her, resulting in a fine.[70]

The following case exemplifies the role of state intervention in addressing a situation. Parbhudas Gujrathi Sonar of Vetalpeth approached the wife of Sitaram, a Desastha Brahmin, near a well and made suggestive remarks, offering to come to her house and fulfil her desires. The woman promptly informed her husband about the incident. Sitaram instructed her to invite the Sonar to their house. Concealing himself, Sitaram observed the interaction between his wife and the Sonar, after which he physically assaulted the Sonar and expelled him from the premises. The batmidar reported the incident to the police station, leading to the apprehension of the Brahmin couple. Both parties provided their statements during the investigation. It was determined that since the Sonar had approached Sitaram's wife without knowing her, she could not be deemed to have committed an offence. A fine was imposed on Parbhudas Sonar, and he was released after providing surety that he would refrain from similar behaviour. Dissatisfied with the decision, the Sonar filed a complaint with the government, and Raghopant Godbole oversaw the subsequent judicial proceedings, resulting in a fine of sixty rupees being imposed on the Sonar. This case highlights the authority of Kotwal to decide cases independently, with the option for the aggrieved party to seek redress

[69] Feldhaus, *Images of Women in Maharashtrian Society,* p. 32, *Prant Ajmas Pune*, 572, 10-12-1783.

[70] Ibid.; *Prant Ajmas Pune*, 569, 12-12-1776.

through the state judiciary. Furthermore, it underscores the tendency of Kotwal's office to levy fines rather than impose more severe punishments.[71]

In another case, Kotwal's office dealt with the trial of a procurer involved in enticing a respectable housewife to engage in adultery. Latifa, the wife of Jijyam Gardi, invited Lingi, the wife of Mahadji Ghugre Tamboli of Ganjpeth, to spend the night with Sarvoji Umravatikar. Lingi subsequently approached her husband and tearfully recounted the incident, leading to a quarrel between Latifa and her husband. The batmidar reported the matter to the Chavdi, resulting in Latifa's arrest and a twelve-day imprisonment. Due to her financial circumstances, her fine was determined based on her ability to pay.[72]

In another incident, a woman expressed her unwillingness to tolerate the inappropriate behaviour of her brother-in-law in the presence of her female acquaintances. The sister-in-law of Tularam Balvar approached the Chavdi and filed a complaint stating that Tularam had engaged in misconduct towards her, resulting in the tearing of her Sari. Tularam was summoned to the Chavdi, and after a thorough investigation, the sister-in-law's accusation was found to be true. The Kotwal's clerk made a remark in the document, stating that if there was a need to tease the sister-in-law, it should be done verbally rather than physically. Considering the dishonourable act committed in the presence of four women, Tularam was fined.[73]

**Justice and Judicial Proceedings on Polygamy**

During the seventeenth and eighteenth centuries, the Peshwas enforced the social duty of husbands to take back their wives if they had left them. In this period, if a man abandoned his wife for an extended period, the wife could not remarry and was expected to wait for her husband's return and claim her. Women had no right to leave their husbands, seek a divorce, or enter into a new marriage. In contrast, men possessed all the rights and could freely abandon their wives, claim them back at any time until their death, and even marry multiple times simultaneously.[74]

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[71] Feldhaus, *Images of Women in Maharashtrian Society* p. 33, *Prant Ajmas Pune*, 575, 5-5-91 to 3-6-91.

[72] Ibid.; *Prant Ajmas Pune*, 571, 14-5-1782 to 12-6-1782.

[73] Feldhaus, *Images of Women in Maharashtrian Society*, p. 34, *Prant Ajmas Pune*, 568, 29-8-1772.

[74] Sen, *Administrative System of the Marathas,* p. 236.

Furthermore, during this era, if a woman was unable to conceive a child, her husband had the option to marry again. However, if the husband faced the same issue, his wife had no choice but to remain with him and could not remarry. For example, Khandoji Banrao, a Sutar from Mauja Redgaon, had been legally married twice but had no son. Therefore, in 1755-56, he entered into a marriage with Haibati, belonging to the Sutar caste, to fulfil his desire for a male heir. However, this marriage was not recognized legally but rather conducted, according to Shastra Vivah. Khandoji appealed to the Sutar community to accept the Shastra Vivah and recognize Haibati as a member of the caste. A gathering was held, and Haibati was accepted into the Sutar community. On this occasion, Khandoji had to pay the state a Nazar of 1001 rupees.[75] Such relaxed marriage laws were primarily observed among the lower castes, and these regulations shaped women's rights, perceptions, and subjectivity. Furthermore, historical documents indicate instances of women resorting to suicide due to harassment, physical abuse, torture, suppression, exploitation, and oppression by their in-laws.

**Justice and Judicial Proceedings on Suicide Committed by Women**

The Dharmashastra literature discusses suicide from a religious standpoint, permitting only those who have achieved the ultimate aim of their life to commit suicide. Any other act of suicide was condemned as a fault (dosa). As the religious and political authority, the Chhatrapati and Peshwa intervened in matters of ritual and caste, even when not directly approached. The state would punish offenders through the judiciary and require them to perform penance. This led to individuals facing dual punishments, both legal and social in nature. The state would sometimes intervene in matters that did not necessarily require the judiciary, particularly those related to domestic and family issues, customs, and rituals. The state's interest was to regulate behaviour and establish itself as the legitimate arbiter of social censure. This expansion of state power and intervention extended into its subjects' family and domestic lives. For example, in a case where a family's daughter-in-law, Thama, went missing from their home and was presumed to have committed suicide, the state itself filed a case emphasizing the family's ritual status rather than focusing on suicide and its causes. The family performed penance (prayaschitta) and purification (Shuddha) as directed by the court and paid a fine of 100 Rupees. In return, the family appealed to the state for the

[75] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. II, 208.

recognition of the restoration of their ritual status.[76] This appeal highlights the state's role as the legitimate arbiter, as its recognition became essential for the reinstatement of one's ritual status.

There are instances where, even in matters not requiring state intervention, people would seek out community-based solutions and ask offenders to perform penance to restore their ritual status. However, when the state became aware of such restoration or penance, it would delegitimize the act and impose fines on the offenders. This attitude of the state undermined community-level arbitration, compelling people to report every matter to the state and seek its recognition in order to restore their ritual status. This exemplifies how the state assumed the role of the legitimate arbiter of social censure.

In a case involving a woman's suicide, Kasibai, who had been subjected to great torment by her husband and mother-in-law, took her own life by plunging into a river.[77] Notably, the document does not mention any fine, penance, or punishment, and it is unlikely to be an oversight since such documents were written with meticulous care, ensuring the inclusion of fines and punishments for each case. This raises several questions: Why was the incident reported to the court if no fine or ritual was required? Was it simply a matter of public record? Why did the state not sanction Prayaschitta in this case? Could the family be held morally responsible for Kasibai's death? Further evidence or additional examples would be necessary to support an interpretation that places the family beyond atonement in some sense.

Another case of suicide was brought to the attention of the state by Balaja Janardan Phadnis, whose daughter-in-law took her own life by drowning in a river. According to Balaja's statement, his daughter-in-law had expressed a desire to take her six-year-old son to bathe in the river during an eclipse, but the family objected due to the child's illness. Out of anger, she left for the river to bathe, where she attempted to drown herself but was saved and brought back home. Following this incident, her in-laws closely monitored her, indicating a sense of confinement. Eventually, she managed to escape when the family was not watching. The family received reports that she had given a vessel to a Brahmin near a river not far from the village. Despite searching for her for six months, no trace of her was found, leading them to believe that she had committed

[76] S. Athavale, *Ramshastri Prabhune: Carita Va Patre*, Shrividya Prakashan, Pune, 1987.

[77] V.T. Gune, *The Judicial System of The Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Poona, 1953, p. 357, case no. 68.

suicide. Seeking to perform the kriyata (death ritual) for their daughter-in-law, the family approached the court, as this ritual required the restoration of their ritual status, which was affected by her suicide.

Towards the end of the document, the narrative voice shifts from recording the family's account to documenting the decision. The family's efforts in searching for her for six months were acknowledged, their Prayaschitta (penance) was noted, and they were granted permission to perform the kriyata and resume their duties as Brahmins. The document concludes with an agreement for the family to pay the state a rajadanda (fine) of 100 rupees.[78]

In another case from 1752, a young woman committed suicide by plunging into a well. Her father-in-law was summoned to court as it was reported that she had been subjected to physical abuse by her mother-in-law. However, the entire household was accused of murdering their daughter-in-law. The court, however, had a different opinion on the matter, stating that she had taken her own life. Consequently, the charge of murder was dismissed, and the family received an Abhayapatra (certificate of acquittal) stating the court's verdict.[79] In this case, the central issue to be resolved was the ambiguity surrounding murder and suicide. It is notable that neither the in-laws nor the court denied the physical abuse inflicted on the daughter-in-law by her mother-in-law and husband. This suggests that such acts of violence against wives or daughters-in-law were not considered criminal. The motives behind the beating, however, were not mentioned. The charge of murder was refuted without any further investigation. Surprisingly, no additional information about the victim is provided in the case.

Another case involving beating and subsequent suicide is documented from 1752. Tukaram Kulkarni was questioned regarding the suicide of his daughter-in-law, who allegedly took her own life after being subjected to facial beatings by her husband. However, the court found both the father-in-law and the husband 'not guilty' and issued an abhayapatra certifying their innocence.[80] Notably, there was no denial by the accused parties that the woman had been beaten. This raises the question of whether her death may have been a result of the beating, later claimed to be suicide. Unfortunately, the

[78] Gune, *The Judicial System of The Marathas*, p. 357, case no. 65.

[79] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. 1, p. 185, case no. 311.

[80] Ibid., p. 185.

available data does not allow us to definitively resolve this matter. Furthermore, no information regarding the victim has been provided in the case or document.

What can be gleaned from these few suicide accounts from the eighteenth century? V.T. Gune suggests that 'bad treatment on the part of their relatives seems to be the cause.' The question arises as to why an accusation of theft would drive a woman to take her own life. Did some of these women commit suicide after experiencing a single instance of facial beatings, or was such violence a routine occurrence? Can we trust that all these cases were genuinely suicides? Each of the mentioned cases presents enough ambiguity to raise doubts about whether the deaths were due to suicide or potentially murder. These cases also highlight that married women, not unmarried ones, committed suicide and faced beatings, indicating that women encountered increased suppression, oppression, and exploitation after marriage in their in-laws' households. Additionally, these cases underscore that beating one's wife or daughter-in-law was not considered a criminal act, as it was permissible to physically harm them. Consequently, the family, particularly the in-laws' household, emerged as the centre of violence against women. In addition to the cases of suicide, there are other documents within Kotwal's papers that shed light on instances of domestic violence against women in which the state intervened and adjudicated the suits.

Furthermore, the records of Kotwal's papers reveal that suicide was regarded as a punishable offence, and interestingly, husbands were often held accountable for their wives' suicides. One such case involved the wife of Nathan Teli, who took her own life by consuming opium. As a result, Nathu was arrested, and during the investigation, it was established that she had committed suicide due to his physical abuse, without any other impropriety. Nathu's offence was proven, and he was fined 24 rupees.[81] This specific case of suicide holds wider implications as it unveils caste concerns and the state's role in regulating matters related to got and caste. The Gota of the Telis in Pune had initially expelled Nathu Teli from the jati due to his abusive behaviour and his wife's subsequent suicide. However, without consulting the jati, Askaran Teli and Bala Teli allowed Nathu back into the jati within a month. Consequently, both Askaran and Bala were summoned to Cautra and interrogated. It was determined that a person could not be readmitted into the jati without the consensus of its members. Therefore, a

[81] Feldhaus, *Images of Women in Maharashtrian Society*, p. 20; *Prant Ajmas Pune*, 568, dated 20-8-1772.

penalty of 30 rupees was imposed on Askaran and Bala for violating the jati's ruling.[82] In this case, the state chose to uphold the jati's deliberations by endorsing its decision. In another case of suicide, a husband was ostracized by his jati, but the state nullified the jati's decision and reinstated his membership. Dhondji's wife and son, Tujali Badhai, committed suicide by consuming opium. As a result, his jati ostracized him, holding him responsible for their deaths. However, the state assured Dhondji that the jati's measures were no longer valid and that he would be readmitted. In exchange for this favour, the state received an appreciation fee called Nazar from him.[83] In this case, the state positioned itself above the jati, disregarding the jati's rules.

These three cases illustrate the clear control exerted by the state over jati. On the one hand, the state could align with the jati's decisions by supporting, endorsing, and implementing its rules. On the other hand, it could override the jati's decision and impose its own.

Additionally, there are other instances of women committing suicide as a result of their husbands' physical abuse. Jivan Chaparband, for example, battered his wife, leading her to take her own life by consuming opium. As a consequence, he was fined.[84] Another case involved an informant reporting to Cavdi that the son of Tukapa from Ravivarpeth had assaulted his wife, who subsequently killed herself by jumping into a well in Ganeshpeth. Following an investigation, Tukapa admitted that his son's wife had committed suicide due to the husband's physical abuse. As a result, a fine of 83 rupees and four annas was imposed on Tukapa, the father of the husband. It appears that Tukapa's son was financially dependent on him, thus resulting in the father paying the fine. In yet another case, Kasi Bagvan from Ravivarpeth had a guest from Aurangabad, and he asked his wife to prepare dinner for the guest. The wife responded that there was nothing in the house to cook. Enraged by her remark, Kasi slapped her, leading her to commit suicide in a nearby tank. However, the incident came to the attention of Cautra, and after an investigation, the husband was fined.[85]

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[82] Feldhaus, *Images of Women in Maharashtrian Society*, p. 20, *Prant Ajmas Pune*, 568, dated 1-9-1772.

[83] Ibid., p. 21; *Prant Ajmas Pune*, Rumal No. 567, dated 17-2-1771.

[84] Ibid.; *Prant Ajmas Pune*, 567, 31-7-1770.

[85] Ibid.; *Prant Ajmas Pune*, 571, 25-5-1782.

Not only was the husband's physical abuse a contributing factor to women's suicides, but several cases also reveal that domestic violence involving both the husband and his parents played a role in these tragic events. In one case, the wife of Bala from Sukravarpeth was found to be squint-eyed. Within fifteen days of their marriage, Bala, his mother, and his maternal grandmother all physically assaulted and abused Bala's wife, leading to her death after a few days of illness caused by the beatings. The incident was reported to the batmidar, and as a result, Bala was apprehended. During the interrogation, he admitted to the beatings. Notably, only Bala himself was held responsible for the physical abuse, not his mother or maternal grandmother.[86] In another case, the Cavdi received information that Gangi, the daughter-in-law of Khandoji, suffered from skin disease on her feet. Her in-laws would force her to work outside, and when she was unable to perform her duties, they subjected her to verbal abuse and physical beatings. As a result, she ultimately took her own life. Khandoji, the father-in-law, was summoned to the station and interrogated, and it was confirmed that Khandoji's daughter-in-law had indeed been harassed and physically assaulted. Consequently, a fine was imposed on Khandoji.[87]

The legal provision holding the husband responsible for his wife's actions was aimed at monitoring the husband's relationship with his wife. There are cases of women's suicides in which the husband was held responsible, regardless of his direct involvement. In one such instance, a Bhoi woman from Vetalpeth committed suicide by consuming opium, leading to the collection of a fine from her husband, Dharma Bhoi.[88] In another case, the wife of Satvaji Navla from Kalevavar ended her life in the well of the Sri Rameshvar Temple. As a consequence, Satvaji's belongings were seized and sold, and the proceeds were collected as a fine.[89] In yet another case, Krishna, the son of Mahadji Ladkat from Kasba, was initially imprisoned but later released upon payment of a fine, as his wife had committed suicide by ingesting poison.[90]

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[86] Feldhaus, *Images of Women in Maharashtrian Society*, p. 22, *Prant Ajmas Pune*, 571, 4-4-1783 to 2-5-1783.

[87] Ibid.; *Prant Ajmas Pune*, 569, 14-10-1776.

[88] Ibid., p. 23; *Prant Ajmas Pune*, 567, 14-2-1770.

[89] Ibid.; *Prant Ajmas Pune*, 569, 25-1-1777.

[90] Ibid.; *Prant Ajmas Pune*, 569.

In addition to harassment by husbands and in-laws, women's suicides were also influenced by issues related to personal and family honour, love affairs, and financial problems. One case involves Bakhatsing, the son of Netsing from Ravivarpeth, who had purchased a slave woman (referred to as a Kunbin) and maintained her as his mistress. However, as Bakhatsing was involved in an affair with another woman, Kunbin ended her own life. Upon receiving this information, the Cavdi apprehended Bakhatsing, and subsequent investigation confirmed the truth of the allegations. Despite the fact that the slave woman was not his wife but his mistress, Bakhatsing was held responsible for her suicide and was required to pay a fine.[91] Another case reflects the influence of personal and family honour on a woman named Rama, who was the sister-in-law of Vita Gurav from Kasba. When news of her suicide reached the Cavdi, Vita was arrested and questioned about the incident. He stated that Rama had engaged in sexual relations (referred to as badkarma) with Bhawani Gurav, a servant from the same caste. Other women in the household witnessed this event and confined Rama in a room for a period of eight to ten days. Eventually, Rama managed to escape from her forced confinement and took her own life. In the absence of Rama's husband (whether she was a widow or not is not specified), Vita, as her brother-in-law, paid the fine.[92] Furthermore, poverty played a significant role in the suicide of a woman named Bhiki Batik. As she was unable to repay her debts and faced harassment from moneylenders (savkar), she resorted to suicide by consuming opium. However, two individuals who were aware of Bhiki's situation, Maini Batik, and the Sonar, did not report it to the state, resulting in fines being imposed on them. Bhiki died in a state of destitution.[93]

**Justice and Judicial Proceedings on Domestic Violence**

The eighteenth-century Maratha state, as depicted in Kotwal's papers, provides numerous cases highlighting the prevalence of domestic violence against women. These documents reveal that women were subjected to physical abuse at the hands of their husbands and in-laws, and the state's legal system, overseen by the Kotwal, enforced penalties for such offences. Interestingly, the victims' identities are often described in relation to their familial roles, such as wives, daughters-in-law, or

[91] Feldhaus, *Images of Women in Maharashtrian Society*, p. 24, *Prant Ajmas Pune*, 571, 9-9-1782 to 6-11-1782.

[92] Ibid.; *Prant Ajmas Pune*, 571, 9-9-82 to 8-10-82.

[93] Ibid.; *Prant Ajmas Pune*, 571, 3-4-1783.

daughters. For example, Ranoji Kadam from Ganeshpeth was fined four rupees for beating his wife and causing her head injury.[94] Similarly, Kasiram Simpi from Ravivarpeth faced a fine for assaulting his wife, and when his aunt Tuljaram Simpi intervened, she too was battered.[95] Mansingh Chamar of Kasba was fined for severe battery against his wife,[96] while Sitaram Pardesi from Mangalvarpeth was penalized one rupee for beating his wife without any fault on her part.[97] In another case, Rupa Mali faced a fine after his wife and sister-in-law complained about being physically assaulted.[98] Devi Bhoi from Ravivarpeth physically assaulted his wife upon discovering that she had consumed opium. Nevertheless, the husband was held accountable for the offence, and a fine was imposed on him.[99]

A complaint was filed by Harki, the wife of Khandoji Harpuda from Narayanpeth, accusing her husband of battering her. As a result, Khandoji was summoned, and an investigation confirmed the unjustified nature of the beatings. He was subsequently imprisoned until he paid the imposed fine, and he had to provide surety that he would not engage in further violence against his wife upon his release.[100]

In one particular case, the husband's anger towards his wife was considered justified, and the state fined the person who had instigated the husband. Badlya Vani, the son of Gariba Vani Padres from Halalkhorpura, engaged in adulterous acts with Manjula, the wife of Hasan Musalman from Ganeshpeth. In response, Hasan resorted to beating his wife for her infidelity and also physically assaulted Vani with a stick. Hasan presented evidence to the Chavdi confirming the illicit relationship between Vani and Manjula, resulting in a fine imposed solely on Vani. Notably, neither the husband who beat his wife nor Vani and Manjula, the adulterous pair, were imprisoned in this case.[101]

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[94] *Prant Ajmas Pune*, Rumal No. 568, dated 24-3-1774.

[95] Feldhaus, *Images of Women in Maharashtrian Society*, pp. 16-17; *Prant Ajmas Pune,* Rumal No. 568, dated 17-6-1773.

[96] *Prant Ajmas Pune*, Rumal No. 567, dated 10-12-1768.

[97] *Prant Ajmas Pune*, Rumal No. 569, dated 23-4-1778.

[98] *Prant Ajmas Pune*, Rumal No. 567, dated 3-9-1770.

[99] Ibid.

[100] *Prant Ajmas Pune*, Rumal No. 573, dated 11-4-1785 to 10-5-1785.

[101] *Prant Ajmas Pune*, Rumal No. 570, dated 1-6-1780.

The records from Kotwal's papers provide evidence of various instances of violence against women perpetrated by their husbands and their mothers-in-law and brothers-in-law. These cases highlight that violence within the domestic sphere was not limited to the husband-wife relationship but extended to other familial relationships as well. For example, Devki, the wife of Devji Salunke, was found guilty of branding her ten-year-old daughter-in-law without any justification. As a result, Devki was fined 45 rupees and cautioned against such unacceptable behaviour.[102]

Furthermore, the documents reveal incidents where brothers-in-law were involved in acts of violence against their sisters-in-law. In one case, Libya Kacho branded his sister-in-law with a hot rod as she attempted to flee the house, imposing a monetary penalty on him.[103] Similarly, Sivji Kunbi scalded his brother's wife by dropping a hot pot on her, resulting in a fine.[104] Similarly, Sivji Kunbi scalded his brother's wife by dropping a hot pot on her, resulting in a fine.[105]

Interestingly, Kotwal's papers also illustrate instances where women were punished for physically assaulting their husbands. Pari Kumbharin, for instance, was fined for beating her husband,[106] and Katai's wife faced similar consequences for assaulting her husband while he was on his way to the washroom.[107] In a particular case reported to the Chavdi, it was documented that Yamuni Golkani from Kasba had physically assaulted her husband without any provocation on his part. Unfortunately, the beating proved to be fatal, resulting in the husband's death. As a consequence, Yamuni was apprehended and subjected to a significant fine of 95 rupees. It is worth noting that, in this specific instance, the husband's death was not classified as murder but rather deemed an accidental occurrence.[108] The imposed fine does not reflect the offence's severity but rather the convicted individual's financial capacity. Additionally, a gunehgari was collected from Satvaji Parit, the father of Bahirji's wife, after both he

[102] *Prant Ajmas Pune*, Rumal No. 569, dated 14-9-1776.

[103] *Prant Ajmas Pune*, Rumal No. 568, dated 23-11-1775.

[104] *Prant Ajmas Pune*, Rumal No. 567, dated 7-6-1770.

[105] *Prant Ajmas Pune*, Rumal No. 567, dated 8-11-1770.

[106] *Prant Ajmas Pune*, Rumal No. 568, dated 19-3-1774.

[107] *Prant Ajmas Pune*, Rumal No. 567, dated 21-3-1770.

[108] *Prant Ajmas Pune*, Rumal No. 568, dated 3-6-1773.

and Bahirji were assaulted when they attempted to bring Bahirji's wife back from her parent's home in Somvarpeth.[109]

Moreover, in addition to violence within the domestic sphere, the records from Kotwal's papers shed light on instances of violence against women in public spaces, which restricted their mobility and reinforced the notion of confining them within the domestic realm.

**Justice and Judicial Proceedings on Violence Outside the Household**

In incidents of violence occurring outside the confines of the household, women were afforded the right to lodge complaints with the state authorities. An illustrative case involves Sekh Husen, the son of Abdul Nabi of Tophkhana, who engaged in a quarrel with Amina Batik, a bonded slave woman, on the same path and physically assaulted her. Seeking justice, the batik approached the Cautru and registered a complaint against Sekh. Consequently, he was summoned for questioning and subsequently found guilty of the offence. As a result, he was ordered to pay a fine of four rupees and eight annas.[110] This case highlights the legal entitlement of bonded slave women to file complaints with the government and seek redress for acts of assault and battery perpetrated against them. Similarly, in another case, a man was fined for issuing death threats to a batik. Hari Ram Gujrathi of Sanivarpeth had maintained a batik as his mistress, who engaged in a relationship with Jivan Vani. Upon discovering this, Hari confronted the batik with a drawn sword, intending to harm her. Following an investigation, Hari was subjected to a monetary penalty.[111] Notably, this case did not raise any questions regarding the affair between Batik and Jivan Vani.

In addition to shedding light on violence within and outside the household, the documents also provide insights into the treatment of women within prison settings.

**Prison and Women**

In the context of prisons, the treatment of male inmates was primarily determined by their social and political standing rather than the nature of their offences. Conversely, female inmates who committed minor offences were subjected to a consistent treatment approach. However, female offenders who committed more serious crimes, deemed as

[109] *Prant Ajmas Pune*, Rumal No. 568, dated 19-7-1773.

[110] *Prant Ajmas Pune*, Rumal No. 568, dated 21-11-1772.

[111] *Prant Ajmas Pune*, Rumal No. 568, dated 15-1-1773.

heinous, were subject to differential treatment. For example, women found guilty of committing adultery were consistently incarcerated in distinct facilities, ensuring that any future encounters between the man and the woman were effectively prevented.[112] Kashi, the spouse of Trimbakji Chawan, eloped from her residence and engaged in extramarital relationships. The individual in question was directed to undergo imprisonment within the confines of Sarasgad Fort, accompanied by explicit instructions to maintain rigorous surveillance in order to deter any engagement in immoral conduct.[113] In winter, female prisoners were allocated saris, bodices, and blankets.[114] The incarcerated individuals who were pregnant were granted release.[115] In certain cases, the authorities allowed prisoners' wives to reside with their husbands within the prison premises to provide care and support, particularly when the health of the incarcerated individuals was compromised. An example from 1777-78 illustrates this practice, where Mahadji Ganesh Phadke, a prisoner in the Chandangad fort, was granted permission for his wife and a female attendant to reside with him. They were provided with the standard provisions allocated to inmates, including the stipulated quota of ration.[116] Moreover, legal proceedings pertaining to married women were typically governed by existing regulations, encompassing customary and written laws. In some instances, new legislation was formulated based on the specific nature of the case. These verdicts and regulations played a significant role in shaping the subjectivity, roles, rights, and responsibilities of women. The subsequent section will delve into the influence of legislation and its implementation by the state in constructing the subjectivity of women.

**Legislations Regarding Marriage**

The Peshwas held both judicial and ecclesiastical authority in the state, which empowered them to govern not only legal matters but also social and religious affairs. Peshwa Baji Rao II, in his pursuit of enforcing traditional shastric regulations, particularly in relation to marriage, issued a directive prohibiting Brahmins from selling their daughters or keeping them unmarried beyond the age of nine. This instruction was

[112] Sen, *Administrative System of the Marathas,* p. 256.

[113] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. VIII, p. 190.

[114] Ibid., Vol. VIII, pp. 151-152.

[115] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. V, p. 225.

[116] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. VIII, p. 143.

communicated through a letter addressed to the Mamlatdar and other officials in Talukas and Mahals. The letter emphasized the strict warning to be given to Brahmins in all villages under their jurisdiction, stressing that non-compliance would not be tolerated. Those found guilty of selling their daughters after the receipt of the letter were to be excommunicated, with the possibility of readmission into the caste subject to further orders from the Peshwa.[117] This legislation sheds light on the state's endorsement of child marriage, primarily affecting girls, and exposes the practice of Brahmins selling their daughters. Additionally, in 1760-61, Govind Rao Apaji, who was imprisoned at the time, was released to facilitate the marriage of his ten and eleven-year-old daughters, as they could not remain unmarried any longer. As a gesture of support, the state conferred Rs. 1000 worth of ornaments to Govind Rao Apaji.[118]

Furthermore, Peshwa Baji Rao II enacted a prohibition on any form of payment or exaction from the bridegroom by the bride's family, threatening punishment for all parties involved in such transactions. It was mandated that any amount received by the bride's family must be returned to the bridegroom's relatives, and an equal sum should be paid as a fine to the government. Failure to report the amount received to the government would result in the bridegroom's relatives and the person facilitating the marriage paying double the amount to the government.[119] This regulation unveils the practice of selling brides or demanding monetary compensation from the bridegroom or his family during marriage ceremonies. The regulations governing women were rooted in ancient legal texts, underscoring the need to explore the antiquity and sources of Maratha state laws pertaining to women.

**Antiquity of Laws related to Women and their Appropriation**

Laws and customs, as well as the interaction between the state and the family, played a significant role in defining and determining the roles, rights, and obligations of women in Maratha society. The injunctions of ancient Shastras largely influenced these laws.[120] One notable practice in Maharashtra was the arrest of wives of absconding offenders in order to pressure them to come out of hiding and surrender. However, this approach often affected innocent women who were seized simply because they were the mothers

[117] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. V, pp. 259-260.

[118] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. II, p. 76.

[119] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. V, pp. 266-268.

[120] Sen, *Administrative System of the Marathas,* p. 340.

or wives of offenders. The Marathas adopted this attitude from the laws advocated by ancient legal scholars. For instance, in his Arthashastra, Kautilya stated that the sons or wives of murderers and thieves should be acquitted if found not in concert, but if found to have been in concert, they should be seized.[121] Consequently, during the Maratha period, the wives and sons of thieves and other offenders were routinely imprisoned.

In cases of adultery, the punishment imposed on women was enslavement, penal servitude, or fines, depending on the circumstances, while male offenders (adulterers) were often not punished and instead faced fines. It is important to consider the extent to which these punishments were sanctioned by ancient legal scholars and how the Marathas adopted and applied these regulations. Kautilya, for instance, recommends three punishments for adultery: cutting off the ears and nose of both the person who abets the act and the woman who voluntarily engages in adultery, or imposing a fine of 500 panas on each, while the adulterer pays double the fine.[122] He also states that a woman who willingly yields herself to a man shall become a slave to the king.[123] Furthermore, according to Kautilya, if a woman of loose character is taken under the protection of a relative or servant of her absent husband, she must wait for her husband's return. If the husband raises no objection upon his return, both the protector and the woman are acquitted. However, if he objects, the woman has her ears and nose cut off, while the keeper is put to death as an adulterer.[124] These laws suggest that the husband was considered the protector of his wife, and in his absence, the wife required the protection of his relatives. The portrayal of the woman as loose in character justified her need for male protection. Such laws played a role in shaping women's rights, roles, and spheres.

The laws and punishments recommended by Kautilya were indeed adopted and implemented by the Marathas. An example of this is seen in a case from 1781-82, where Ahili, the wife of Janoji Davra, committed adultery with Devji Khandoji Chinchyada. Devji was fined, while Ahili was enslaved and later released after her nose was

[121] Kautilya, *Arthashastra*, tr. R. Sharma Shastry, Wesleyan Mission Press, Mysore, 1929 p. 257.

[122] Ibid., p. 256.

[123] Ibid., p. 260.

[124] Kautilya, *Arthashastra*, p. 260.

mutilated.[125] Similarly, in 1755, a Koli woman named Randki was enslaved for committing adultery, but she was later released upon the request of her kinsmen and fined Rs. 50.[126]

During the administration of the elder Madhava Rao, adultery with a willing woman who her husband had abandoned was decriminalized.[127] However, in two ordinary cases, such adulteresses were still imprisoned.[128] This regulation of Madhav Rao seems to have been influenced by Kautilya's recommendation, which states, 'Those women who have been rescued from the hands of thieves, from floods, in famine, or national calamities, or who, having been abandoned, missed, or thrown out as if dead in forests, have been taken home may be enjoyed by the rescuer as agreed upon.'[129] Another ancient lawgiver, Narada, explicitly defends male adulterers by stating, 'A man is not punishable as an adulterer for having intercourse with the wife of one who has left his wife without her fault, or of one impotent or consumptive if the woman herself consents to it.'[130] Peshwa Madhav Rao's decision clearly indicates that adultery with a willing woman who her husband had abandoned was not considered an offence for either the woman or the man. Kautilya's prescription regarding abandoned, missed, and thrown-out women also suggests that adultery in such cases was not considered an offence for either party. While Narada's recommendation demonstrates that adultery in the cases mentioned by him was not an offence for men, it does not clarify whether it was considered an offence for women.

The use of words such as 'willing' (Madhav Rao), 'agreed upon' (Kautilya), and 'consents' (Narada) in their recommendations highlights the importance of consent in early periods, particularly during Kautilya's time and among ancient lawgivers. The Marathas were also aware of the significance of consensual and non-consensual intercourse. The consent of women was considered in both laws and social institutions. For example, in a scenario where a woman had been abandoned by her husband and

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[125] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. III, p. 108.

[126] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. II, pp. 66-68.

[127] Ibid., p. 209.

[128] Ibid., p. 210.

[129] Kautilya, *Arthashastra*, p. 261.

[130] Sen, *Administrative System of the Marathas* p. 342; Max Muller, *The Sacred Books of The East*, Vol. 33, Oxford University Press, Oxford, 1889, p. 177.

was wandering in search of food and shelter if she received food and shelter from a particular man, it can be inferred that she had given her consent to the arrangement.[131]

The regulation set forth by Apastamba, an ancient lawgiver, views adultery as an immoral act for which both men and women should be punished. According to his regulation, if a young man engages in sexual intercourse with a marriageable girl, his property shall be confiscated, and he shall be banished. The king is then responsible for supporting and protecting these women and girls from defilement. If they agree to undergo the prescribed penance, the king must hand them over to their lawful guardians.[132] However, Apastamba's regulation does not provide explicit details on how the king is expected to protect these adulteresses from defilement, but it can be inferred that they were closely guarded and supervised. The Marathas appropriated this regulation by imprisoning and enslaving adulteresses to protect them from defilement while also requiring them to perform labour in forts or prisons. The support and protection offered by the state were contingent upon their willingness to undergo the prescribed penance. As the final portion of Apastamba's regulation authorized the state to hand over the adulteresses to their lawful guardians, they were returned to their lawful parents, who would ensure their future good conduct. An example of this can be seen in the case of Janaki Lagdin, who was imprisoned with penal servitude at Fort Visapur for committing bad karma. She was released in 1785-86, as her father assured the authorities of her future good conduct.[133]

According to primary sources, only women were believed to be enslaved as a punishment for adultery in medieval Maharashtra. The rights of slaves and the laws concerning their manumission under the Marathas were influenced by regulations given by ancient lawgivers. Under the Maratha rule, slaves had the opportunity to earn their income and inherit property. They even had the ability to purchase their freedom.[134] Although this regulation seems to contradict the codes of Manu,[135] it aligns with

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[131] Sen, *Administrative System of the Marathas* p. 342; Max Muller, *The Sacred Books of The East*, Vol. 33, Oxford University Press, Oxford, 1889, p. 342-43.

[132] Ibid., p. 343; Muller, *The Sacred Books of The East*, Vol. II, p. 163.

[133] *Selections from the Satara Rajas and the Peshwas Diaries*, Vol. VIII, p. 108.

[134] Sen, *Administrative System of the Marathas,* p. 344; Broughton, *Letter from a Mahratta Camp*, *during the Year 1809*, p. 75.

[135] Manu suggests, 'A slave cannot have any property, the wealth he earns belongs to his master.' This recommendation is completely contrary to Maratha practice. For further

Chanakya's recommendation, which states, 'A slave shall be entitled to enjoy not only whatever he has earned without prejudice to his master's work but also the inheritance he has received from his father.'[136]

In Maratha law, the marriage of a female slave was considered equivalent to her manumission. This principle is reminiscent of Kautilya's regulation, which suggests that when a child is born to a female slave from her master, both the child and the mother should be recognized as free individuals.[137] The Marathas took this concept further by liberating their female slaves, regardless of whether they were married of their own volition or otherwise, when they married free men.[138]

The legal system and judicial decisions regarding women in Maratha society were strongly influenced by prevailing social practices. These verdicts played a crucial role in shaping the status of women within society, determining their rights, obligations, and more. The interplay between legal regulations, verdicts pertaining to women, and their social position highlights the opportunity for women to seek justice in situations where societal norms typically confined them to the domestic sphere. The progressive nature of Maratha society allowed women to transcend the confines of their households, although certain biases persisted within the administration of justice. It is important to note that women in Maratha society were spared from capital punishment, a departure from the norms dictated by sastric laws. Instead, women were generally subjected to fines, imprisonment, and, on rare occasions, mutilation. They possessed the right to seek justice, appeal decisions, and assert their rights within the judicial system.

information about Manu's regulation, see, Sen, *Administrative System of the Marathas,* p. 344; Muller, *The Sacred Books of The East*, Vol. XXXV, p. 232.

[136] Kautilya, *Arthashastra*, p. 207.

[137] Ibid., p. 207.

[138] Sen, *Administrative System of the Marathas,* p. 344.

## Glossary

| | |
|---|---|
| *Adabkhana and bandikhana* | Rooms in a fort reserved for the prisoners |
| *Amin and Daftardar* | The officer and the clerk that assisted the chief justice |
| *Agravadi* | A Complainant or a plaintiff |
| *Ashta Pradhan Mandal* | Council of Eight Ministers. |
| *Bakhar or Bakher* | Any history, relation, memoir |
| *Baluta* | A share of the corn and garden produce assigned for the subsistence of the twelve servants of a village. |
| *Bhrashta* | Impure |
| *Deshmukha* | A hereditary officer, the head of a Pargana. |
| *Deshpande* | A hereditary officer, the Pargana accountant or Record-keeper |
| *Devadanda* | Religious or spiritual punishment, penance, or expiation, the same as Prayaschitta. |
| *Dharmadhikari* | A public censor, a judge or a magistrate |
| *Diwandanda* | Royal or State punishment. |
| *Durg* | A fort |
| *Ghatasphota* | Ceremony of the ejection of a person from his caste typically expressed by the actual breaking of a pitcher on the occasion (Also means divorce) |

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|---|---|
| *Gota, Gotras* | 1. A caste as assembled in investigation matters or as considered collectively<br>2. Relations and kindred considered collectively.<br>3. A body of Watandars, Mirasdars, Uparis and Rayas assembled to consider local problems- administrative, judicial and even social. Traced in Mahzars from Maharashtra |
| *Gramasanstha* | Caste Panchayat |
| *Harduvadi* | Both plaintiff and defendant. |
| *Harki/ Harsha* | Money paid to the court in token of his gratification by the successful suitor or a litigant |
| *Huzur* | The royal court or presence, also the royal person or the regal office and excellency as personified or as viewed concretely to His Majesty, the Government, etc. |
| *Jagir* | A kind of feudal tenure |
| *Jatidanda* | While re-entering into his caste the offender was re- quired to give a dinner to his caste people in order to qualify himself for social intercourse. This was called Jatidanda. |
| *Jivanmafak* | According to means, resources, or ability of. |
| *Jayapatra* | A royal record of decision. |
| *Karina* | A written statement given by the plaintiff at the time of the institution of the suit before government officers |
| *Karyat* | A Mahal composed of ten or twelve villages. |
| *Kasba* | The chief town of a Tarf or a Pargana, the old portion of the town, the town having a mart |

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|---|---|
| *Khandagunhegari* | A comprehensive term for fines, mulcts, forfeits. |
| *Killedar* | An officer in charge of a fort |
| *Khurakhata* | A document issued in favour of the successful party, from the secretariat according to the previous decision of the Majlis, for the enjoyment of a Watan. During the Maratha period, it was replaced by Watanpatra. |
| *Kriya* | Substantiating, establishing, verifying by oath, ordeal, citing witnesses, producing documents, etc. A type of ordeal. |
| *Mahajan* | A hereditary officer in the Kasba, assistant of a Shetya |
| *Mahal* | A sub-division of a Pargana. |
| *Majlis* | A court or assembly in general. A royal court. |
| *Mahzar* | A general application or representation, a statement laid before a judge, a public attestation or a document attested by a number of persons professing to be cognisant of the circumstances of the case and submitted with their signatures. |
| *Masala* | An exaction levied by Government from one summoned to answer a charge, the fee which the peon sent to summon the person is authorised to demand. |
| *Mayathala* | Mother's, i.e., place. A term used by a caste or dissatisfied litigant in appealing for an award in his own village or neighbourhood and demanding a fresh investigation at a "parasthala", realising the principle that a "prophet hath no honour in his own country." |

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|---|---|
| *Muchalka* | A written engagement under a penalty; the bond of agreement furnished by the parties to the Majlis or the Panchayat |
| *Najar* | A present to a superior. |
| *Nivadapatra* | A record of a decision |
| *Paragana* | A large division of a country with one or more towns at the head, a district. |
| *Paat-Vivaha* | A second and inferior sort of marriage, especially among the widows of the lower classes. |
| *Petha* | A trading centre, a place of sale or traffic, the town of market belonging to a fort |
| *Pursis* | Questing or interrogating as of parties or witnesses in a dispute. |
| *Rajmandal* | The royal circle, the ministers, and other officers around the sovereign. |
| *Rakhtakhana* | Palace, court, the royal circle, the noblemen and grandees around the sovereign. |
| *Raya* | The peasantry or country-tenantry. |
| *'Sadi'* | Any writing or oral statement in attestation or evidence of. |
| *Sand-asanad* | A written authority from the Government, etc. |
| *Shahidi* | Witness, testimony, deposition. |
| *Sherni* | see Haraki |
| *Shetya* | A hereditary officer in the mart or commercial town. Prefect of the market. |
| *Talaba* | A summons. |
| *Talabarokha* | A written summons. |

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|---|---|
| *Tarf* | A small division of a country composed of a verifying number of villages. The original Arabic word is spelt as “Taraf”. |
| *Thalakari* | A hereditary proprietor of a land. |
| *Thana* | The head station of a Tarf; also, generally, a post station, stand, or lodge, under the civil authority the establishment was maintained there. |
| *Tufan ghene* | To accuse falsely. |
| *Uttarvādi* | Defendant |
| *Watan* | A hereditary estate, office, right, a dignity, or a chattel, due, any hereditary right whether in land or in office. Everything of value was brought under the conception of Watan, one’s land, one’s personal status, one’s office. |
| *Watanpatra* | The title deed of a Watan. See above Khurdakhat. |
| *Yejitapatra* | The writing furnished by the party in suit, admitting his failure. The word has double aspect- towards the bearer of the Patra and towards the furnisher. |

# BIBLIOGRAPHY


## Original Sources (Unpublished Documents)

- Chitnis Daftar, Pune Archives, (Rumal No. 18 – 35).
- Peshwa Daftar, Pune Archives, (Rumal No. 81 – 100).
- *Prant Ajmas Pune*, Maharashtra State Archive, Pune.
- Shahu Daftar, Pune Archives, (Rumal No. 2 – 50).

## Original Sources (Published Documents)

- *Ahaval*, Vol. I & II, Shaka 1832 – 33, BISM, Poona.
- *Aitihasik Samkirna Sahitya Khanda*, Vols. I – VIII, BISM, Poona.
- *Dusare Bajirao Peshwe Yanche Rojnishi*, ed. B.P. Joshi, Deccan Vernacular Transliteration Society, Pune, 1908.
- Kautilya, *Arthashastra*, tr. R. Sharma Shastry, Wesleyan Mission Press, Mysore, 1929.
- *Marathyanchya Itihaschin Sadhanen*, ed. V.K. Rajwade, Bharat Itihas Samsodhak Mandal, Pune, 1910.
- Mavji and Parsanis, *Vatanpatre, Nivadpatre, etc.*, Pune, 1909.
- *Pant Amatya Bavada Daptar*, Vols. I – II, ed. Keshav Govind Sabnis, Kolhapur, 1937.
- *Peshwekalin Samajik va Arthik Patravyavahar*, *1722-1854*, ed. R.V. Oturkar, B.I.S.M., Pune, 1950.
- *Purandare Daftar*, Vols. I – III., ed. Krishnaji Vasudev Purandare, Poona, 1929 – 34.
- Ramchandrapant Amatya, *Ajnapatra*, ed. A.R. Kulkarni, Mansanman Prakashan, Pune.
- *Ramshastri Prabhune Charitra Va Patre*, ed. Sadashiv Aṭhavale, Shrividya Prakashan, Pune, 1988.

- *Sanads and Letters. Selected by Rao Bahadur Ganesh Chimnaji Vad and Edited by Purshotam Vishram Mawjee and D.B. Parasnis*, eds. Ganesh Chimnaji Vad, Purshotam Vishram Mawjee, Dattatraya Balwant Parasnis, Jagadhitechu Press, Poona, 1913.
- *Selections from the Peshwa Daftar*, Vols. 2, 5, 17, 22, 23, 30, 31, 32, 38, 39, 43, 45, ed. G. S. Sardesai, Government Central Press, Bombay, 1934-40.
- *Selections From the Satara Rajas and the Peshwas Diaries*, Vols. I – IX, eds., D. B. Parasnis, G. C. Vad, and others, Deccan Vernacular Translation Society, Poona, 1906-11.
- *Senapati Dabhade Daftar*, Part-1, ed. S.N. Joshi, B.I.S.M., Pune, 1951.
- *The private Diary of Ananda Ranga Pillai, Dubash to Joseph François Dupleix, Governor of Pondicherry; A Record of Matters: Political, Historical, Social, and Personal, from 1736-1761,* Vol. IV, ed. H. Dodwell, The Superintendent, Government Press, Madras, 1916.
- *Tritiya Sammelana Vritta*, Vols. I – VII, Shaka, BISM, Poona, 1835 – 41.

**English Sources**

- Broughton, Thomas Duer, *Letter from a Mahratta Camp*, *during the Year 1809*, Archibald Constable and Company, Westminster, 1892.
- Elphinstone, Mountstuart, *Reports on The Territories Conquered from The Paishwa*, Government Gazette Press, Calcutta, 1821.
- Elphinstone, Mountstuart, *Twilight of the Maratha Raj 1818: Queries from Mr Mountstuart Elphinstone Commissioner of the Deccan to the Collectors in the Deccan and Political Agent Satara Peshwa Dafter*, ed. R. D. Choksey, Poona, 1976.
- *English Records on Shivaji (1659 - 1682)*, Shiva Charitra Karyalaya, Poona, 1931.
- Jenkins, Richard, *Report on the Terretories of the Rajah of Nagpore: Submitted to the Supreme Government of India*, Govt. Gazette Press, Calcutta, 1826.

- Lumsden, N.J., Reports on the Judicial Administration of the Peshwas, Deccan Commissioner's Daftar, Vol. 95, 1819.

**Travelogues**

- Carre, Abbe, *The Travels of the Abbe Carre in India and the Near East: 1672 – 1674*, Vol. I, tr. Lady Fawcett, ed. Charles Fawcett, The Hakluyt Society, Glasgow, Printed by R. Maclehose, London, 1947 – 1948.
- Forbes, James, *Oriental Memoirs: A Narrative of Seventeen years Residence in India*, Vols. I – IV, R. Bentley, London, 1834.

**Gazetteer**

- Gazetteer of Bombay Presidency, Vol. XI, Satara District, Government Central Press, Bombay, 1885.
- Gazetteer of Bombay Presidency, Vol. XIII, Part I and XIV, Thane District, Government Central Press, Bombay, 1882.
- Gazetteer of Bombay Presidency, Vol. XX, Sholapur District, Government Central Press, Bombay, 1885; Maharashtra State Gazetteer, Sholapur District, Reprint, Government of Bombay, Bombay, 1997.

**Secondary Sources**

- Altekar, A. S., *A History of Village Communities in Western India*, Oxford University Press, Bombay, 1927.
- Apate, Vasudev Govind, *Marathi Shabd Ratnakar*, Keshav Bhikaji Dhawale, 1939.
- Apte, D. V., and Oturkar, R. V., *Maharashtracha Patrarup Itihas*, Anath Vidyarthi Griha Prakashan, Pune, 1963.
- Athalye, Vishnu Vasudev, *Athalye Gharanyacha Itihas*, Khanda-1, Seetabai Karandikar, 1948.
- Baden-Powell, B. H., *Origin and Growth of Village Communities in India*, Swan Sonnenschein and Co. LTD., New York, 1899.
- Ballhatchet, Kenneth, *Social Policy and Social Changes in Western India, 1817 – 1830*, Oxford University Press, London, 1957.

- Begde, Prabhakar V., *Forts and Palaces of India*, Sagar Publications, New Delhi, 1982.
- Bendrey, V. S., (ed.), *Kesava Pandita's Dandanīti prakaranam or Criminal Jurisprudence (XVIIth Century),* Pune: Bharata Itihasa Samshodhaka Mandala, 1943.
- Bendrey, V. S., (ed.) *Maharastretihasaci Sadhane*, Vol. II, No. 210, Mumbai Marathi Grantha Samgrahalaya, Pune, 1966.
- Bhattacharya, Sibesh Chandra, *Some Aspects of Indian Society, from C. 2nd Century B.C. to C. 4th Century A.D.*, Firma KLM, Calcutta, 1978.
- Bhave, Nilima, *Pesvekalin Striya*, Popular Prakashan, Bombay, 1989.
- Bhave, V. K., *Peshwekalin Maharashtra*, Varada Prakashan Pvt. Ltd., 2010.
- Bryce James, *Studies in History and Jurisprudence*, Vols. I & II, Oxford University Press, Oxford, 1901.
- Burke, R. C., *Notes on Sangli State*, Mission Press, Kolhapur, 1909.
- Chapekar, N. G., *Peshwaichya Savalit*, Arya Sanskriti Press, Pune, 1937.
- Chitnis, K. N., *Glimpses of Maratha Socio–Economic History*, Atlantic Publishers and Distributors, New Delhi, 1994.
- Chitnis, K. N., *Socio–Economic History of Medieval India*, Atlantic (P) LTD., New Delhi, 2002.
- Deodhar, Y. N., *Nana Phadnis and the External Affairs of the Maratha Empire*, Popular Book Depot, Bombay, 1962.
- Desai, Sudha V., *Social Life in Maharashtra Under the Peshwas*, Popular Prakashan, Bombay, 1980.
- Deshpande, C. D., *Western India: A Regional Geography*, Student's Own Book Depot, Dharwar, 1948.
- Dighe, V. G., *Peshwa Bajirao I & Maratha Expansion*, Karnatak Publishing House, Bombay, 1944.
- Duff, James Grant, *A History of the Mahrattas*, 3 Vols., Oxford University Press, Oxford, 1826.

- Eaton, Richard M., *A Social History of the Deccan, 1300-1761: Eight Indian Lives,* The New Cambridge History of India, Cambridge University Press, Cambridge, 2005.
- Feldhaus, Anne, ed., *Images of Women in Maharashtrian Society,* State University of New York Press, 1998.
- *French Records, Relating to the History of the Marathas,* tr. & ed. V. G. Hatalkar, 9 Vols., State Board for Literature & Culture Mantralaya, Bombay, 1980.
- Franks, George H., *Panchayat Under the Peshwa*, Poona Star Press, Poona, 1930.
- Frykenberg, Robert Eric, ed., *Land Control and Social Structure in India History*, University of Wisconsin Press, Wisconsin, 1969.
- Fukazawa, Hiroshi, *The Medieval Deccan: Peasants, Social Systems and States, Sixteenth to Eighteenth Centuries*, Oxford University Press, Delhi, 1991.
- Gawali, P.A., *Saranjamsahi*, Priyadarshi Prakashan, Kolhapur, 1991.
- Ghorpade, B. B. Raje, *Ghorpade Gharanyacha Itihas*, Maharashtra Rajya Sahitya ani Sanskruti Mandal, Mumbai, 1989.
- Gordon Stewart, *Marathas, Marauders, and State Formation in Eighteenth-Century India*, Oxford University Press, New Delhi, 1994.
- Gordon, Stewart, *The Marathas 1600-1818,* The New Cambridge History of India, Vol. II-4, Cambridge University Press, New Delhi, 1993.
- Guha, J. P., A History of Maratha People, Vols. I & II, Associated Publishing House, New Delhi, 1971.
- Gune, V. T., *The Judicial System of The Marathas: A detailed study of the Judicial Institutions in Maharashtra, from 1600-1818 A.D., based on original decisions called Mahzars, Nivadpatras and official orders,* Pune: Deccan College, 1953.
- Hope, John, *The House of Scindea: A Sketch*, London: Longman, Green & Co., 1863

- Jaffe, James, *Ironies of Colonial Governance: Law, Custom and Justice in Colonial India*, Cambridge University Press, Cambridge, 2015.
- Joshi, S. N., *Marathekalin Samaj Darshan*, Anant Vidya Griha Prakashan, Pune, 1960
- Kadam, Vasant S., *Maratha Confederacy. A Study of its Origin and Development*, Munshiram Manoharlal Publishers, New Delhi 1993.
- Kale, Y.M., *Nagpurkar Bhoslyancha Bakhar*, Vidarbha Sanshodhan Mandal, Nagpur, 1979.
- Kamalapur, J. N., *The Deccan Forts: A Study in the Art of Fortification in Mediaeval India*, Popular Book Depot, Bombay, 1961.
- Kane, Pandurang Vaman, *History of Dharmashastra (Ancient and Medieval Religious and Civil Law)*, Vol. I, Government Oriental Series, B. No. 6, Bhandarkar Oriental Research Institute, Poona, 1930.
- Karve, Iravati and Damble, Yashwant Bhaskar, *Group Relations in Village Community*, Deccan College, Pune, 1963.
- Karve, Iravati, *Hindu Society: An Interpretation*, Deccan Collage, Poona, 1961.
- Ketkar, Shridhar Venkatesh, *Maharashtriya Gyanakosha* (Encyclopedia), Part 17, Maharashtriya Gyanakosha Mandal, Nagpur, 1925.
- Khare, V. V., *Nana Fadanvis Yanche Charitra,* Varada Prakashan, 2002.
- Khare, Vasudevshastri, *Nana Fadnavisanche Charitra*, Meraj, 1927.
- Khobrekar, V. G., *Konkan: From the Earliest To the 1818 A.D.*, Snehavardhan Publishing House, Pune, 2002.
- Kincaid, C.A. and Parasnis, Rao Bahadur D.B., *A History of the Maratha People*, Humphrey Milford, London, 1918.
- Kincaid, David, Shivaji, *the Founder of Maratha Empire*, Discovery Publishing House Delhi, Reprint, 1984.
- Krishna Bal, *Shivaji, the Great*, Vol. I, II, D. B. Taraporewala, Bombay, 1932.

- Kulkarni, A. R., *Explorations in the Deccan,* Pragati Publications, New Delhi, 2006.
- Kulkarni, A. R., *Maharashtra: Society and Culture*, Diamond Publication, Pune, 2007.
- Kulkarni, A.R, *Maharashtra in the Age of Shivaji*, Poona, 1967.
- Kulkarni, A.R., and G.H. Khare, *Marathyancha Itihas*, Vol. 3, 1921.
- Kulkarni, A.R., *Punyache Peshwe*, Rajhans Prakashan, Pune, 1999.
- Kulkarni, A. R., *Sources of the Maratha History,* K. P. Bagchi and Company, Calcutta, 1978.
- Kulkarni, A. R., *The Marathas*, Books &Books Publishers and Distributers, New Delhi, 1996.
- Kulkarni, Madhukar, *Nana Phadnavis Ani Marathi Rajya Prashasan*, Pune, 2004.
- Kulkarni, Madhukar, *Peshawaitil Nyayadan*, Manasman Prakashan, Pune, 1998.
- Kumar, Ravinder, *Western India in the Nineteenth Century: A Study in Social History of Maharashtra*, University of Toronto Press, Toronto, 1968.
- Levy, Marion J., *The Structure of Society*, Princeton University Press, Princeton, 1952.
- Mahajan, T. T., *Maratha Administration in the 18th Century*, Commonwealth Publishers, New Delhi, 1990.
- Majumdar, R. C., Dighe, V. G., ed., *The History and Culture of the Indian People: The Maratha Supremacy*, Vol. VIII, Bharatiya Vidya Bhavan, Bombay, 1977.
- Malcolm, John, *A Memoir of Central India,* 2 Vols., Thacker, Spink and Co., London, 1823-24.
- Mande, Prabhakar, *Gavagadyabaher*, Parimal Prakashan, Aurangabad, 1983.

- Molesworth, J. T., *A Dictionary English And Maratihi,* (2nd Edition), Shubhada Saraswat Publications, Pune-5, 1831 (First Edition).
- Muller, Max, *The Sacred Books of The East*, Vol. 33, Oxford University Press, Oxford, 1889.
- Myrdal, Gunnar, *Asian Drama: An Inquiry into the Poverty of Nations,* Vol. I, London: Penguin Books, 1968.
- Nadakarni, R. V., *The Rise and Fall of the Maratha Empire*, Popular Prakashan, Bombay, 1966.
- Naik, J.V, *The Foundation of Swarajya, in Shivaji and Swarajya*, ed., Orient Longman, Delhi, 1975.
- Narwane, M. S., *Forts of Maharashtra*, APH Publication Corporation, New Delhi, 1995.
- Oaten, E. F., *European Travellers in India during the 15th, 16th, & 17th Centuries*, Asian Education Services, New Delhi, Reprint 1991, London, 1909.
- Patankar, B. R., *Apporna Kranti*, Manju Prakashan, Pune, 1988.
- Pathak, Bindeshwar, ed., *Continuity and Change in Indian Society*, Concept Publishing Company, New Delhi, 1998.
- Punalker, S. P., *Aspects of Class and Caste in Social Tensions: A Study of Marathwada Riots*, Centre for Social Studies, Surat, 1981.
- Ranade, Anuradha K., *Socio – Economic Life of Maharashtra (1100 – 1600 A.D.)*, Serials Publications, New Delhi, 2009.
- Ranade, M. G., *Marathyanchya Sattescha Utkarsha*, Maharashtra Rajya Sahitya va Sanskruti Mandal, Mumbai, 1964.
- Ranade, M. G., *Rise of the Maratha Power*, Ministry of Information and Broadcasting, Delhi, 1961.
- Ranade, M. G., *Shivaji and the Rise of Marathas,* Punalekar and Company, Bombay. 1900.
- Sardesai, G. S., *New History of The Marathas: Shivaji & His Line* (1600-1707), Vol. I, Bombay: Phoenix Publications, 1948.

- Sardesai, G. S., *New History of The Marathas: The Expansion of The Maratha Power* (1707-1772), Vol. II, Bombay: Phoenix Publications, 1948.
- Sardesai, G. S., *The Main Currents of Maratha History,* M.C Sarkar & Sons, Calcutta, 1926.
- Sardesai, G. S., *Marathi Risayat*, Volume 3, Popular Prakashan, Mumbai, 1979.
- Sardesai, G. S., *New History of the Maratha, Vol. I, II, III,* Phoenix Publications, Bombay, 1957-58.
- Sardesai, H. S., *Shivaji, the Great Maratha*, Vols. I – IV, Cosmo Publications, New Delhi, 2002.
- Sarkar, Jadunath, *House of Shivaji*, M.C Sarkar & Sons, Calcutta, 1940.
- Sarkar, Jadunath, *Shivaji and his Times,* Longmans Green & Co., London, 1920.
- Sen, Surendranath., *Administrative System of the Marathas,* 2nd edition, K. P. Bagchi & Company, Calcutta, 1925.
- Sen, Surendranath., *Life of Siva Chhatrapati,* K. P. Bagchi and Company, New Delhi, 1977.
- Sen, Surendranath, *Siva Chhatrapati : being a translation of Sabhasad Bakhar with extracts from Chitnis and Sivadigvijya, with notes*, Calcutta: University of Calcutta, 1920.
- Sherwani, H. K., and Joshi, P. M., *Medieval Deccan, 1295-1724*, Vol. I, the Govt. of Andhra Pradesh, 1973.
- Singha, Radhika, *A Despotism of Law: Crime and Justice in Early Medieval India*, Oxford University Press, New Delhi, 2000.
- Sinha, H. N., *Rise of the Peshwas*, The Indian Press (Publication) Ltd., Allahabad, 1954.
- Srinivasan, C. K., *Baji Rao I, the Great Peshwa*, Asia Publishing House, Bombay, 1961.

- Stein, Burton, *The New Cambridge History of India: Vijayanagara*, Cambridge: Cambridge University Press, 1989.
- Stewart N. Gordon, "The Slow Conquest: Administrative Integration of Malwa into the Maratha Empire, 1720—1760," *Modern Asian Studies* 11, no. 1 (1977): 1–40. http://www.jstor.org/stable/311884.
- Takakhav, N. S., *The Life of Shivaji Maharaj: Founder of the Maratha Empire*, Manoranjan Press, Bombay, 1921.
- Tatke, Arvind, *Nana Fadnavis*, Meenal Prakashan, Kolhapur, 1998.
- Temple, Richard Sir, *Shivaji and the Rise of the Mahrattas*, Calcutta Sushil Gupta, 1953.
- Toy, Sidney, *The Strongholds of India*, William Heinemann, London, 1957.
- Waikar, Gajanan, *Nyayamurti*, Suras Prakashan, Solapur, 1981.

**Articles**

- Abhang, C. J., 'The Religious Policy of the Marathas in Malwa.' *Proceedings of the Indian History Congress*, vol. 79, Indian History Congress, 2018, pp. 323–28.
- Abhang, C. J., 'Two Unpublished Letters of Hon. Justice Ramshastary Prabhune A Judge of the Peshwa 18th Century.' Proceedings of the Indian History Congress, vol. 60, Indian History Congress, 1999, pp. 465–72.
- Ambedkar, B.R., 'Preface', *Janata*, 7th March 1936.
- Bhaware, N. G., 'The Role of the Panchayat in the Judicial Administration of the Peshwas in Maharashtra: (1750-1818 A.D.).' *Proceedings of the Indian History Congress*, vol. 40, 1979, pp. 491–95.
- Chakravarti, Uma, 'Wifehood, Widowhood, and Adultery: Female sexuality, Surveillance and the State in the 18th Century Maharashtra', *Contribution to Indian Sociology*, 29 (1-2),1995, pp. 3-21.
- Dighe, V. G., 'Penal Code of the Peshwas.' *Proceedings of the Indian History Congress*, vol. 10, Indian History Congress, 1947, pp. 448–53.

- Divekar, V. D., "The Emergence of an Indigenous Business Class in Maharashtra in the Eighteenth Century," *Modern Asian Studies* 16, no. 3 (1982): 427–43. http://www.jstor.org/stable/312115.
- Dumont, Louis, 'The 'Village Community' from Munro to Maine', *Contribution to India Sociology*, Vol. IX, 1965, pp. 67-89.
- Frykenberg, R. Eric, 'On the Study of Conversion Movements: An Analytical and Research Perspective,' *The Indian Economic and Social History Review*, Vol. XVII, 1980.
- Fukazawa, Hiroshi, "Rural Servants in the 18th Century Maharashtrian Village—Demiurgic 0r Jajmani System?" *Hitotsubashi Journal of Economics* 12, no. 2 (1972): 14–40. http://www.jstor.org/stable/43295541.
- Fukazawa, Hiroshi, 'State and Caste System (Jāti) In The Eighteenth Century Maratha Kingdom,' *Hitotsubashi Journal of Economics*, vol. 9, no. 1, 1968, pp. 32–44.
- Ghurye, G.S., 'Features of the Caste System,' in ed. Dipankar Gupta, *Social Stratification*, Oxford University Press, New Delhi, 2004.
- Guha, Sumit, 'An Indian Penal Regime: Maharashtra in the Eighteenth Century,' *Past & Present*, No. 147, Oxford University Press, 1995, pp. 101-26.
- Guha, Sumit, "Wrongs and Rights in the Maratha Country: Antiquity, Custom and Power in Eighteenth-century India," in *Changing Concepts of Rights and Justice in South Asia*, Michael R. Anderson and Sumit Guha (ed.), Delhi: Oxford University Press. 1998.
- Jaffe, James A., 'Custom, Identity, and the Jury in India, 1800–1832,' *The Historical Journal*, vol. 57, no. 1, 2014, Cambridge University Press, pp. 131–55.
- Joshi, G. B., 'Caste Conflicts of the Brahmins in 18th and 19th Centuries Maharashtra,' *Proceedings of the Indian History Congress*, Vol. 43, 1982.

- Kadam, V. S. 'Forced Labour in Mahārāṣṭra in the Seventeenth and Eighteenth Centuries: A Study in Its Nature and Change,' *Journal of the Economic and Social History of the Orient*, vol. 34, no. 1/2, 1991, pp. 55–87.
- Kantak, M.R, 'The Political Role of Different Hindu Castes and Communities in Maharashtra in the Foundation of Shivaji's Swarajya,' *Bulletin of the Deccan College Research Institute*, Volume 38, No. 1/4, Pune, 1978-79.
- Kulkarni, A. R., 'Social and Economic Position of Brahmins in Maharashtra in the Age of Shivaji,' *Proceedings of the Indian History Congress*, vol. 26, 1964, pp. 66–75.
- Kulkarni, A. R., 'Social Relations in the Maratha country in the Medieval Period,' *Proceedings of the Indian History Congress*, Vol 1, 1970, pp. 231-268.
- Kulkarni, A. R., 'The Origin of Deshmukh and Deshpande,' *Proceedings of the Indian History Congress*, vol. 31, 1969, pp. 266–71.
- O'Hanlon, Rosalind, 'In the Presence of Witnesses: Petitioning and judicial 'publics' in western India, circa 1600 – 1800', *Modern Asian Studies*, 53 (1), Cambridge University Press, Cambridge, 2019, pp. 52-88.
- O'Hanlon, Rosalind, 'Narratives of Penance and Purification in Western India, c. 1650–1850', *The Journal of Hindu Studies*, Volume 2, Issue 1, May 2009, Oxford University Press, Oxford, 2009, pp. 48–75.
- Oturkar, R. V., 'Caste Regulations Under Maratha Rule,' *Proceedings of the Indian History Congress*, vol. 12, Indian History Congress,1949, pp. 201–03.
- Oturkar, R. V., and Joshi, S. N., "Institution of Watan and its influence on the 18th Century Maratha Society," *Proceedings of the Indian History Congress* 8 (1945): 280–85. http://www.jstor.org/stable/45435429.
- Saswadkar, P. L., "A Note on The Kotwali of Poona in the last quarter of the Eighteenth Century." *Proceedings of the Indian History Congress* 24 (1961): 274–80, http://www.jstor.org/stable/44140764.

- Siddiq, Zameeruddin, "The Wizard of Safdar Jang," *Proceedings of the Indian History Congress* 29 (1967): 190–204. http://www.jstor.org/stable/44155496.
- Sinha, H. N., "The New Foundations of Maratha Power," *Proceedings of the Indian History Congress* 23 (1960): 230–40. http://www.jstor.org/stable/44304068.
- Sohoni, Pushkar, 'Peshwa's Adhishthan: The Making of the Maratha State', Journal of the Economic and Social History of the Orient, vol. 57, no. 5, 2014, pp. 645-671.
- Wagle, K. N., 'Women in the Kotwal's papers, 1779-1791', in ed., A. Feldhaus, *Images of Women in Western Maharashtrian Society*, State University of New York Press, New York, 1998.
- Wagner, Kim A., 'The Deconstructed Stranglers: A Reassessment of Thuggee', *Modern Asia Studies*, 38 (4), Cambridge University Press, 2004, pp. 931-963.
- Zupanov, Ines G., 'Conversion Historiography in South Asia; Alternate Indian Christian Counter-Histories in Eighteenth century Goa,' *The medieval History Journal*, Vol. XII, Issue 2, 2009, pp. 303-25.

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INTRODUCTION

Umesh Ashok Kadam

# Medieval Deccan: an Era of Transition

## (Maratha State and the Age of Conflicts, Challenges and Collaboration)

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# 9. The Judicial System under the Peshwas: A study of judicial institutions, crime and punishment from 1750 – 1818 AD

*Mr. Aditya Sharma*
*Research Scholar*
*Jawaharlal Nehru University*

## Introduction

The study of crime, punishment and judicial institutions throughout history has revealed that there is no uniform or homogeneous structure and sources of law to solve inter personal conflicts. Sources of the Maratha period consistently report that the Maratha administration restored law and order in its domain by punishing the wrong, rebels, and insurrectionaries. Max Weber believed that achieving the "highest degree of formal juridical precision" would maximize the chances of correctly predicting the legal consequences of any action.[1] Many general histories have included chapters on the various judicial institutions, numerous cases that pertain to the law and order of the given times. These sources throw light on different kinds of crimes and punishments for various cases and at times different punishments even for similar cases. They record punishments related to numerous cases of rebel, religious matters, criminal and other civil suits. It is noteworthy that apart from the records of the cases, evidence, and judgements in the form of *Mahzers* and *Nivadpatras*, great importance was laid by the authorities administering justice on rituals and traditional practices that were an essential part of the proceedings of such trials. However, these institutions remained a subject to reforms with the changes in the society and polity of the time it underwent. It can never be assumed that even though reforms and changes were brought in these judicial institutions, crime would have dissipated from the society. It is clear that punishments for crimes depended upon the geographical, social, political, administrative, and even financial conditions of the people.

The history of the judiciary in the western part of Medieval India was constructed by the pathbreaking work of V.T. Gune[2], who has masterfully used the scarcely available sources from 1300-1800 AD. There have been attempts in the past decades from various others to master this field, including notable works from Jorg Fisch, Sanjay Nigam, Radhika Singha and Meena Radhakrishna[3], which cannot be ignored. However, most of these have largely concentrated more towards the colonial period and there is a lack of focus on expanding upon the works of V.T. Gune, B.V. Bhat, Surendranath Sen or Muhammad Basheer Ahmad, who have laid the foundation of the study prior to the Europeans powers in the Maratha country using most of the available regional and local sources. This essay shall survey the judicial

practices of the Maratha state from the time of the establishment of the Peshwa under the Maratha state.

By the middle of the 18th century, the Marathas effectively controlled a large part of the peninsula, and many parts of northern parts of India. Shivaji was responsible for the territorial expansion. However, the same cannot be said for his grandson Shahu, who was responsible for the shifting of authority from the King to Brahman chiefs – the Peshwas, who from then on ruled the Maratha state from their seat at Pune and retained the king as the nominal head at the town of Satara.[4] In order to understand the judicial system of the Marathas in the time frame of this essay, it is essential to study the judicial system of the 17th century, which is marked by both change and continuity. With the Peshwa becoming the de-facto ruler after the 1750s, the judicial system underwent several changes. The existing judicial bodies were ignored and new bodies to administer justice were created.

## I

In a society that is based on written codes of law, cases may be solved via interpretation and analysis of those codes. However, there remains the problem of determining how far those codes would encapsulate the exact the conceptions of various social groups at the time, and the more difficult issue of establishing the extent to which the codes actually governed social practices. This would be the case in a territory with defined boundaries and a unified legal system, but the issue becomes more complicated when we consider a region of shifting political boundaries, often with undefined jurisdictions, in which several unwritten and written bodies of law and custom could be invoked or set aside, as the case may arise. This was the case of Maharashtra in the 17th and the 18th centuries.[5]

The judicial system of the Marathas in the pre-Peshwa period remained influenced at two geographical divisions. There was the central judicial system with the king at its apex. He designated two special ministers as the central judicial head, namely – *'Nyayadhish'* or the chief of justice, and *'Panditrao'* or the minister of religious affairs. The office of the *Nyayadhish* and the *Panditrao* was next to the king in authority. The *Nyayadhish* had the judicial authority over all kinds of litigation within the kingdom under the king. The *Dhramasabha* was responsible for administering justice in religious matters formed by Shivaji after his coronation. This was a new inclusion to the judicial structure as prior to its formation, religious matters were looked upon by the *Majlis* or the *Gota* (local administrative bodies). In the judicial assemblies (*Dharmasabha* or *Huzur Hazir Majlis*), the king had the assistance and suggestions of his ministers called *Rajmudras* in every suit.

The local judicial mechanism functioned through the *Majlis* that was present in all divisions. V.T. Gune states that these officials performed the same duties that were performed by the Jagirdars and their appointees for administering justice during the Sultanate period. Yet another basic institution of dispensing justice at the very primary level was the Thana or the *Tarf Majlis* which was constituted by the Diwan Thana and the local *Gota* of Thana. Village *Majlis* also looked into the administration of justice headed by the *Patil*. They dealt with disputes that occurred within the village.[6]

The Governor within their assigned territories remained the supreme judicial authority. They had appellate powers. *Sarsubhedars* were assigned to assist these governors in judicial proceedings.

The *Subha* or the *Pargana Majlis* of the Diwan and the *Gota* had two judicial machineries, the Diwan also known as the Raj Mudra. There were two prominent officials in it. The *Subhedar* that dealt with original and appellate cases and kept an account over the proceedings of the *Subha Majlis*, that were referred to him by the *Sarsubhedars*. The other being the *Sabhasad* (Councillor) who had been replaced by the *Majlis* that was present during the Sultanate period. *Sabhasad* was also the chief authority of the law of the *Majlis*.

The office of the *Qazi* was ignored under the Swaraj and was lowered down to the *Gota*. It was only called for suits concerning the Muslim personal laws. S.S. Sen argues that the Maratha judicial system did not function with elaborate rules of procedure, volume of codified laws, and costly court houses. He further asserts that though these local officials were commonly illiterate but they had significant knowledge of unwritten customary laws and were extensively assisted by the *Balutedars*.[7]

There were serious changes that occurred in the functionality of the judicial system under Shahu, though not much effort was put into the need for structural changes. Although he still remained the ultimate judicial authority, his feudal lords, ministers and new *sardars* patronized the system. These feudal lords appointed their own *subedars* who regulated the judicial system under their assigned regions. They were assisted by the *Majlis* of the Dewan, the *Gota* and the Panchayat in solving the disputes. Until the reign of Shahu, *Majlis* (*Pargana Majlis* and the local *Majlis*) dealt with both the central and the local disputes. It was from the time of the Peshwas during the 1750s that the Panchayats stood firm in administering justice under the authority of the newly formed Peshwas.

## Judicial System under the Peshwas (1750-1818 AD)

The ultimate authority that dispensed justice which, till the time of Shahu, remained in the hands of the king was eventually replaced by the Peshwa. He was now assisted by the Diwan, who was the secretary to the Peshwa and the Fadnis, the auditor to the Peshwa.The role of the *Nyayadhish* and *Panditrao*, which were the central judicial heads, had by then reduced to nominal offices. The same followed with the *Dharmasabha,* which was now only a titular body. The *Rajmandal* and the *Rajmudra* were also ignored. These changes were not abrupt but gradual. The first three Peshwas exercised their judicial powers through the assistance of the *Gota*. It was after the death of Shahu that the Peshwa used Panchayats for every judicial administration replacing the *Gota* and the *Majlis*. The Peshwa appointed the chief justice (*Nyayadhish*) to deal with civil, criminal and social suits under his orders. James Grant Duff states that whenever a great jagirdar was established, a *Nyayadhish* was employed for superintending panchayats. The Peshwa was supposed to be present in valuable cases, however, when he could not make himself available, his Diwan and/or Fadnis stepped in and tried to investigate the matter through Panchayat. Gradually, the Panchayats replaced the traditional *Majlis* and *Gota*.

The already functioning local offices of *Sarsubhedars*, *Subhedars* and *Mamlatdars*, Seth Mahajans and the Patils were ordered by the government to solve disputes through the Panchayats. These officials dealt with both original and appellate cases and had been permitted for the use of the *Mutalqi* seal over judicial papers. In case of any dissatisfaction from the judgement, parties could take the cases to higher authorities or the central court of the Peshwas. Grant Duff writes that these officials made decisions according to the consent of the parties in petty cases to avoid an overload of appeals in such cases. The role of the Panchayats remained so crucial that cases were not heard without its assembly, considering it to be unauthorised.

In the regions that remained away from the core under the authority of the autonomous chiefs, including areas such as Nagpur, justice was delivered by the *Kamavisadars*. They were assisted by the Fadnavis and Patils. It was usual that they examined cases under their personal supervision but under complications, they also referred cases to the Panchayats. The jagirdars in their assigned jagirs also referred important cases to the Poona court.[8]

***Panchayats***

Rosalind O' Hanlon in her article titled, '*In the Presence of Witnesses: Petitioning and judicial 'publics' in western India, circa 1600 – 1800*', writes about the panchayats in the pre-colonial period in Western India and is convinced that it represented a judicial forum of great antiquity, in which the petitioners were able to gain local and direct access to justice. She says that during the early modern centuries, a diverse array of state-level and local corporate bodies made up the landscape for the submission of petitions and the hearing of suits. Although many of the cases were local in nature, the process of hearing and adjudication itself gave these judicial spaces a significant 'public' dimension, and their forms of arguments frequently invoked general principles of justice and moral order. The Maratha state, based in Pune, sought firmer control over the revenue and justice. State officials promoted the panchayat as a new type of judicial arena, weakening the local corporate institutions and tying them more closely to the Pune court. With their deep local knowledge and familiar principles of procedure, traditional panchayat assemblies retained a great degree of control and confidence of the people.

The Panchayat was a constitution of respectful villagers who had no knowledge of Sastras and conjunctions that were given by the Hindu lawgivers such as the *Yagnavalkya* and *Manu*.[9] These Panchayats were established during Shahu's reign, but they had become more popular under the Peshwas. The *Sabha Naik* and *Maha Prashnika* (chief interrogator) who remained esteemed during Shahu, had now lost ground under the Peshwa. The number of *punches* in the Panchayat was chosen by the parties itself. The chosen *Panchas* in a *panchayat* numbered from three to fifteen. It is a clear indication that the Panchayat was not the body of the government officials, as it could change from time and cases – depending upon the parties. If the involved parties could not suggest or choose the *Panchas*, for whatever reasons or circumstances, a government officials called *Karkun* or superintendent would assist in doing so, keeping in mind the consent of the parties.

The Panchayats could deal all kinds of disputes and cases. It solved suits related to *'watan'*, boundary disputes, landed property, money disputes, marriages partition, and maintenance to women, adoption, succession, irrigation, priestly income matters etc. It was after 1750, that the Panchayats replaced the *Majlis* and became the core of justice and judicial mechanism.[10]

When a Panchayat was held for resolving disputes, parties had the right to select the place of the trial. Generally, they were organised by the Patil and Shete Mahajans in villages and Kasbas confirmed by the Mamlatdar. All Panchayat cases were termed undeceived without the presence of the state officials such as Patil, Shete Mahajan and Mamlatdar who made reports of these suits.

On the basis of evidences, documents that were produced before the judicial body, the final decision of the Panchayat called *Nivadpatra* had to be passed by the state. The Panchayat can be seen as an intermediary between the parties and the state with the state under the control of the Peshwa being the ultimate authority.

Apart from the Panchayat, there were three other important hierarchical judicial bodies – the *Gotsabha*, the *Brahmsabha* and the *Jatisabha*.

The *Gotsabha* was a local judicial administrative body headed by the Deshmukh and Deshpande who dealt with fiscal, judicial and police mechanism of the Pargana. When we look deeper into the administration of these *Gotsabha*, there are several segregations into these local *Gotsabhas*. There were *Gotsabha* of the *Tarf* or the *Gotsabha of the Kasba*, both having their own *Gotsabha* known as *Munjeri (tarf)* and *Mohotarf (Kasba). Munjeri* was the group of villagers and *Mohotarf* dealt with the market place. Seth Mahajan was the head of the *Tarf* or *Kasba Gotsabha* whose role was in solving disputes of the commercial matters with the assistance of the *Khooms*. Cases that were not solved by the *Tarf Gotsabha* were further referred by the Seth Mahajan to the *Pargana Gotsabha*.

The *Gotsabha* had the right to examine cases that were related to *watan* or hereditary titles, landed and movable property, money disputes, boundary disputes and so on. V. T. Gune observes that there were times when the *Brahmasabha* was asked for advice when there was a need for the learned Brahmins.[11]

On the other hand, socio-religious offences were settled by the *Brahmasabha* which was a body of learned Brahmins that include *Vaidik Pandit, Jyotish, Puranik* and others. This judicial body rendered advice on cases that were referred to it by the *Majlis* and government officials. It was headed by the *Dharmadhikari*, who superintended the cases that were related to *Achara Vyavhara* (Hindu Law), *Prayaschitta* (religious expiation). All issues that involved Brahmins were examined by the *Brahmasabha*. It was the judicial assembly of the Brahmins and by the Brahmins.[12]

The third important judicial assembly was the *Jatisabha,* which administered cases related to the violation of caste regulations. Every caste had its own caste assembly known as the *Jatisabha* that examined offences perpetrated within or between castes. However, it remained different from *Gotsabha* as the *Jatisabha* dealt matters only related to caste offences and not all disputes that originated in the village. V.T. Gune asserts that the *Gotsabha* administered

all the civil cases while the *Brahmasabha* and the *Jatisabha* settled matters that originated in the ambit of society and religion.[13] The members of the *Jatisabhas* were known as *Daiva*. The *Jatisabha* also solved disputes related to women, particularly adultery.[14]

The debate on whether the Marathas followed a traditional 'Brahmanical' outlook in solving disputes or if there were changes that were incorporated into the traditional laws remains relevant. Karine Bates in her article titled, '*The Indian Legal System: A Unique Combination of Traditions, Practices and Modern Values*, Communication, Culture and Confrontation', talks about the overlapping local jurisdiction. She argues that, the *Dharmashashtras*, a respected ancient system of written law, did not operate as the unifier of the legal system on the territory, which became the Indian nation. She postulates that the Peshwa had their own system of court, ruling along with the caste council. The Peshwa government had ultimate decisional powers with it even in matters of matrimonial conflicts and sexual misconduct, indicating that the state had supreme control over the people it governed. The article further gives examples of suits indicating the kinds of crimes and punishments inflicted depending upon caste lines. It sums up with the conclusion that the Maratha judicial system enforced Brahmanic rules, especially for Brahmans. Narendra K. Wagle in article, '*Women in the Kotwal's papers, 1779 – 1791*, suggests that *shastric* norms of punishment were not always followed, contrary to the British perception of a systematic implementation of traditional Hindu law. He says that pre-British India had a more flexible way to settle disputes. Decisions over the sanctions depended more on the local practices and the principle of ability to pay. On the other hand, Uma Chakravarti in *'Wifehood, Widowhood, and Adultery: Female sexuality, Surveillance and the State in the 18th Century Maharashtra'*, estimates that the Peshwa's increasing recourse to Brahmanic interpretations led to the expansion of Brahmanical gender ideology. Her paper finds that the sentences against Brahmin women were more severe than for lower caste women. Thus, it still remains unclear whether there was any reinforcement of Brahmanical ideology or was there flexibility in that regard.

However, there were various Hindu and traditional customary rituals followed in the execution of justice during this period. Although the members of the Panchayat and other judicial bodies at various levels were commonly illiterate, they mostly followed the old Hindu laws from the *Manu, Dharmasastras, and Hemadri etc.* V.T. Gune mentions that the state did not intervene in caste related cases. There were unwritten customary laws as well. The Dharma (law) was on top and it had three categories: *Strauta* (based on the Vedas), *Smarta* (based on the *Smritis*) and *Sistacara* (the behaviour of the respected in the society).

Even in the case of the witnesses that had to be present during any dispute, there were several rituals that had to be followed. Before being present before the Panchayat, the witness would have to bathe himself in the river followed by prayers in the temple and then present himself before the Panchayat for his testimony. It was the duty of the *Karkun* to look into these rituals which were approved by the Mamlatdar. S.S. Sen states that the Marathas believed in divinity and faith to solve disputes. Their religious ideas were also used to solve those kinds of cases that had nothing to do with religion.

It is unknown as to how much it must have helped but not only the witnesses but even the parties had to swear on god, putting hand on the head of family members, making promises

of important articles, persons, fire and things were considered equivalent to being truthful. However, it should be taken into account that these rituals were not invented by the Marathas but rather reintroduced into the judicial system from the axioms of old Hindu lawgivers.

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These Hindu law books and *smritis* were referred only for moral and religious matters, but they were dormant in criminal suits. For criminal cases, there was court of inquiry by members that were appointed by the Peshwa and not the Panchayat.[15] However, the authorities for justice remained the same. Local authorities such as Patil in village, *Mamlatdar* in districts, *Sarsubhedars* in Parganas and central authorities like *Nyayadhish* in the Central court by the Peshwa administered justice in criminal and civil suits.

## II

In a collection of political precepts prepared for the young Peshwa Madhavrao Narayan in 1783, we find the following advice on administering justice: "Do not humiliate others, this insults them and breeds enmity in their minds; if they find the means, they will destroy you."[17] It is to be noted that even though all kinds of morality, spiritual texts, rituals and norms that were followed by the people in settling disputes, crimes and disputes did take a toll on the society as a whole. Disputes of property, land, marriages, castes, robbery, theft, adultery, so on and so forth did occur from time and space. Therefore, archives from the *Kotwals* and the Peshwas' Daftar contain evidence of different types of crime and disputes that were settled by the judicial officers. It is noteworthy that there were various financial, political, social and diplomatic factors that played an important role in solving these disputes.

All penal administrations exercise considerable discretion with regard to prosecution. Wide discretion characterised the practices of the Maratha regime, which would not have seen the equal treatment of all offenders as being at all a desirable goal. Punishments could vary widely even for identical offences.[18] It would remain influenced depending upon the social, economic and political standing of the culprit. Punishment varied from the range of fines, imprisonments, mutilation and death apart from those social punishments inflicted through the *Brahmasabha* and *Jatisabha*.

Fines as a form of punishment played a prominent role in settling disputes. These fines ranged from half a rupee to thousands of rupees. Fines were fixed according to the livelihood and the ability to pay (*jivammafik*). At times they were paid to the victim as compensation. Guha discusses the murder of Trimbakji and his wife, where the culprit had to surrender forty-five *bighas* of their land to Kevji, the son of Trimbakji to restore his normal livelihood.[19]

Sexual misconduct was a lucrative source of revenue through fines. In one instance Appaji Pawar attempted to elope with a slave woman belonging to Govind Balla, and he was arrested. The order in the case was to collect the possible fine from him, and if was not in a position to pay the fine, then to release him anyway.[20] While Adai, belonging to a headman's family, was convicted of adultery with Jhegatpuri Gosarvi, they were jointly fined seven thousand rupees.[21]

In cases of adultery, women were fined less than the men, which must have been because of the lower financial status of women as compared to men.

In cases of *Badkarma,* which was considered guilty and liable for fines, there are few instances when men had to pay the entire amount that was charged on them and their partner. Nevertheless, women and men usually paid their own fines. In such cases women arranged money from local bankers, relatives, friends and well-wishers. There were occasions when fines were paid by the heads of the caste to which the offender belonged.

Caste and social status did play a prominent role in consideration of fines. For example, a Brahman widow from *Narayangaon* was found to have a liaison with a low caste man, when found, the Panchayat, confiscated her house in lieu of her fine. The Brahmins of the locality met to reconsider the case and it was exempted on the grounds that, she had two children of age six and eight who had undergone the thread ceremony and shall be regarded as Brahmins. Therefore, the fine was exempted. However, it is not known what happened to the women after the children were put under Brahman's charge.[22]

In many of the possible cases where the culprit could not fulfil the requirements of the prescribed fines, it was possible that they were enslaved or imprisoned. An answer to a British enquiry in about 1820 reveals:

> *If low caste women, sudras etc. are caught in adultery and their kin lack the capacity to pay their fine, and they do not belong to a notable or respectable household, then sometimes, in some administrative charges, the executive officer might enslave them, keep them in the Government house, gift them to someone, or sell them. This is not the law- books (shastras), enslavement for offences. They do not prescribe it. They prescribe various punishment and penances. Women are enslaved as the equivalent of the fine.*[23]

The Maratha state also used institutional confinement as a form of punishment, although detention may have remained a costly form of punishment because the state lacked necessary infrastructure for it, at least at its initial phase.[24] This must have housed political prisoners, tax defaulters and under special investigation and exceptional categories. However, till the time of a culprit's investigation and in cases of realisation of fines, the Maratha state did use detention as a form of punishment. This was possible because of the rich penal resources in the form of hill forts in the Maratha society, which made escape difficult.

Those who committed crimes such as murder, robbery, rebel etc. were imprisoned in the forts that had particular cells for the prisoners called *Bandikhanas* or the *Adabkhanas*.[25] This

implies that there was no proper independent jail system prevalent during the Peshwa period. It also means that the defence mechanisms of the government did play a role in judicial mechanisms.

The prisoners in the jails performed particular duties if they were to enjoy certain exemptions. In one of the cases, Yesa, a detained man facing trial was required to perform building work.[26] No matter the gravity of the crime, Brahmins, men or women, could not be imprisoned because their caste protected them from execution. The brahman Peshwa servant who had colluded with Baku Pethi in throwing her brother out of a window was imprisoned at a hill fort and only released until his health deteriorated seriously.[27] These prisoners received rations that corresponded to their rank. There were provisions of parole for occasions of funeral rites, marriages in the family or so on. There were conditions when the relatives of the prisoners were allowed to stay with them. However, these privileges could be availed depending on the status of the prisoner alone.

Just as fines were at times taken from the head of the household, imprisonment also could extend beyond the offender. For example, Bhiubai, a Brahman woman, got her daughter married twice, so she, her daughter and son were all imprisoned.[28] In another example, when Chhota Kashi raped a woman and absconded, as punishment his home was attacked, his father, mother, wife, and children were imprisoned and were only released after payment of one thousand rupees as fine.[29]

Mutilation had always remained as a form of punishment for crimes of murder, treason, dacoity, theft, etc. This was inflicted upon those who were exempted from extreme penalty of death. This was to showcase to the society the consequences of offences and to maintain the fear of law and order. Even women were not exempted from it. Sumit Guha explains that a limbless beggar would certainly be more visible than a cremated corpse, hence the Maratha regime inflicted various mutilations, according to the crime. In one of the cases we see that mutilation was used as a substitute for slavery. In 1782-83, Ahili, wife of Janoji Devra was convicted for adultery with Devji Khandoji Chinchvada. Devji was fined and enslaved; but Ahili kept her liberty at the cost of her nose.[30]

Cutting off the nose or the ears was seen as a metaphor for dishonour in Maratha society. It was more commonly inflicted upon women. Chopping off the hand(s) was very common for cases related to theft and dacoity. In severe cases of treason, conspiracy etc., it was common to lose one hand and a foot. Punishment by death – most often by beheading – was rare under the regime of the Peshwas. It was only much later that other methods were deployed, such as firing from the mouth of a cannon or gun.

Although there are few instances of death penalties in the Maratha regime, armed robbery cases sometimes resulted in executions, because they were tantamount to rebellion. One of the earliest listed instances of death penalty was the execution of Muzaffarjang, an officer of the regular infantry who, in 1757, attempted to assassinate Sadashivrao, the Peshwa's brother and wounded him in the attack. Similarly, Andukhan was punished for raising a rebellion in the Karnatak. He was blown out of a cannon.[31]

Apart from punishments for the crimes that was inflicted upon the culprit, there were social purification that the person had to go through to be accepted in society. Any offence was followed by a Suddhipatra that the offender showed to return. After trials, even if the accused was found innocent, he or she had to drink cow urine for purification, which suggests that trials were considered impure.

## Conclusion

The Maratha regime, which was a supplement to the Mughal and Deccan Sultanate, formulated many judicial conveniences of their own, yet they also adopted many of the prevalent practices. They were aware of the Sanskrit traditions in law and at many occasions invoked the classical concepts of dharma or *Maharashtradharma* that were specific for the region of Maharashtra.[32] The judicial laws, proceedings, ways of trials, and punishments had roots in the *Shastras*, Vedas, *Smritis* and old Hindu law texts. Professor Chapekar stated that the polity and economy of the state changed but new social institutions and laws were never assimilated by Indian society. It faced a big transitional period that modified social laws but the institutions remained the same.[33]

However, whether or not the laws of scripture were implemented in actual practice remains an open question. Further, to what extent were these spiritual laws, whether Islamic or Brahmanical in nature - that influenced the judicial practices of the land. Sumit Guha argues that the influence of the Dharma remained limited in regard to criminal justice if not in all judicial proceedings. He asserts that even though the Peshwas were Brahmins, their laws and criminal jurisprudence bear little resemblance to Sanskrit scriptures.[34] His assertions come from the evidences where at least in all criminal cases, even the Brahmans were subject to punishments which is abided in most of the old Hindu texts.

While the central court of the Peshwa at the capital of Poona functioned with professional judges, particularly *Nyayadhish*, interrogators, law interpreters and specified officials, the conditions were different at the regional and Panchayat level. These local level bodies administered justice by members who had little knowledge of the law and they remained only a collaboration of members for particular cases. They were only seen as an intermediate body between the state and the parties as without the seal of the state, the decisions of the Panchayat were illegitimate. While on the one hand the Panchayat was authorised and empowered by the Peshwa, on the other hand, it devastated the Panchayat's authority because nothing could continue to be legitimate without the final seal and authority of the Peshwa.

The method of administering justice through the Panchayat was also liked by the earlier British officials, such as Elphinstone, who recommended the continuation of administering justice by the Panchayat. During the initial phase of British rule after 1818, people demanded justice through Panchayats rather than British courts, because they were familiar with its indigenous procedures and laws.[35] In fact, Elphinstonein 1818, argued that in Maratha society, every individual had knowledge of Hindu laws and its rules in civil cases under Peshwa rule.[36] It is perceived from Guha's arguments that the scriptural laws did not have much influence on the judicial practices. However, it must be taken into account that traditions and rituals playid

and important role in the course of discharging justice. Maratha society was too concerned and conscious about traditions and rituals in ceding justice. The members of the panchayat, who performed the role of judges and were members of the jury were expected to have acquaintance of the old traditions and rituals, more particularly in civil laws. This led them to a more legally informed and aware polity during the Maratha reign.

**Notes and References**

1. Sumit Guha, *The Qazi, the dharmaadhikari and the judges; Political authority and legal diversity in pre – modern India*, Gijs Kruijtzer, Thomas Ertl (Eds.) Law Addressing Diversity: Pre modern Europe and India in Comparison (13th – 18th centuries), Walter de Gruyter GmbH, Berlin/Boston, 2017, p. 97.
2. V. T. Gune, *The Judicial System of the Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Pune, 1953.
3. J. Fisch, *Cheap Lives and Dear Limbs: The British Transformation of the Bengal Criminal Law 1769 – 1817*, F. Steiner, Wiesbaden, 1983; S. Nigam, *"A Social History of a Colonial Stereotype: The Criminal Tribes and Castes of Utter Pradesh, 1871 – 1930"*, School of Oriental and African Studies, University of London, Ph.D. Thesis, 1987; R. Singha, *A Despotism of Law: British Criminal Justice and Public Authority in North India*, University of Cambridge, Ph.D. Thesis, 1990; M. Radhakrishna, *Surveillance and Settlement under the Criminal Tribes Act in Madras*, Indian Economy and Social Science Review, xix 1992.
4. Sumit Guha, *An Indian Penal Regime: Maharashtra in the Eighteenth C*entury, Past & Present, No. 147, Oxford University Press, 1995, p.104. Sumit Guha takes the reference from G. S. Sardesai, *A New History of the Marathas*, Vol. III, Phoenix Publications, Bombay, 1957 – 68.
5. Sumit Guha, *Wrongs and Rights in the Maratha Country; Antiquity, Customs, and Powers in Eighteenth century India,* Crime through Time, ed. Saurabh Dube and Anupama Rao, Oxford University Press, New Delhi, 2013, p. 4.
6. V. T. Gune, *The Judicial System of the Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Pune, 1953, p. 35 – 37.
7. S. N. Sen, *Administrative System of the Marathas*, Ananda press and Publication Pvt. Ltd. Calcutta, 1925, p. 164.
8. V. T. Gune, *The Judicial System of the Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Pune, 1953, p. 48.
9. S. N. Sen, *Administrative System of the Marathas*, Ananda press and Publication Pvt. Ltd. Calcutta, 1925, p. 165.
10. V. T. Gune, *The Judicial System of the Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Pune, 1953, p.4 9 – 50.
11. *Ibid*, p. 65 – 68.
12. *Ibid*, p. 65 – 66.
13. *Ibid*, p. 66 – 67.
14. T. T. Mahajan, *Maratha Administration in the 18th Century*, Commonwealth Publishers, New Delhi, 1990, p. 161.
15. V. T. Gune, *The Judicial System of the Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Pune, 1953, p. 105 – 6.

16. SumitGuha, *An Indian Penal Regime: Maharashtra in the Eighteenth Century*, Past & Present, No. 147, Oxford University Press, 1995, p.110.
17. *Ibid*, p. 126.
18. *Ibid*, p. 112.
19. *Ibid*, p. 113.*Selections from the Satara Raja's and Peswa's Diaries*, ed. G. C. Vad, et al., 9 selections, Pune, 1903 – 11, p. 184.
20. *Ibid*, p. 115.
21. *Ibid*, p.115, *Selections from the Satara Raja's and Peswa's Diaries*, ii, pt. 2, p.67.
22. *Ibid*, p. 115 – 116.
23. G. S. Sardesai, ed., *Selections from the Peshwa Daftar*, Vols. xiv. Bombay, 1931 – 34, p.3. 24. Sumit Guha, *An Indian Penal Regime: Maharashtra in the Eighteenth Century*, Past & Present, No. 147, Oxford University Press, 1995, p. 118.
25. S. N. Sen, *Administrative System of the Marathas*, Ananda press and Publication Pvt. Ltd. Calcutta, 1925, pp. 430 – 31.
26. SumitGuha, *An Indian Penal Regime: Maharashtra in the Eighteenth Century*, Past & Present, No. 147, Oxford University Press, 1995, p. 119.
27. *Ibid*, p. 119. 28. *Ibid*, p.120.
29. *Ibid*, p. 121.
30. *Ibid*, p. 121.
31. *Ibid*, p. 124.
32. Thorough and perspective analysis of social and political issues from varying perspective are to be found in A. R. Kulkarni, *Maharashtra in the Age of Shivaji, Diamond Publication*, Pune, 1969; H. K. Fukuzawa, *The Medieval Deccan: Peasants, Social System and State sixteenth to eighteenth century*, Oxford University Press, Madras, 1998; A. Wink, *Land and Sovereignty in India: Agrarian Society and Politics under the Eighteenth Century Maratha Swarajya*, Cambridge University Press, Hyderabad, 1986.
33. V. T. Gune, *The Judicial System of the Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Pune, 1953, p. 134.
34. Sumit Guha, *An Indian Penal Regime: Maharashtra in the Eighteenth* Century, Past & Present, No. 147, Oxford University Press, 1995, p. 104.
35. S. N. Sen, *Administrative System of the Marathas*, Ananda press and Publication Pvt. Ltd. Calcutta, 1925, p. 378.
36. V. T. Gune, *The Judicial System of the Marathas*, Deccan College Postgraduate and Research Institute, Yervada, Pune, 1953, p. 133.

# CRIMES AND PUNISHMENTS: JUDICIAL INSTITUTIONS IN 17TH AND 18TH CENTURY MARATHA COUNTRY

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**DOCTOR OF PHILOSOPHY**

**ADITYA SHARMA**

**CENTRE FOR HISTORICAL STUDIES**
**SCHOOL OF SOCIAL SCIENCES**
**JAWAHARLAL NEHRU UNIVERSITY**
**NEW DELHI-110067**

**2023**

# CONCLUSION

The rise and fall of empires had been a common feature in the Indian Sub-continent since the historical period. In the 14th, 15th and 16th centuries, the Marathas were settled in the lands as Watandars, with various titles such as Patil, Deshmukh, Sardar and Raje. They remained faithful and valiant fighters for the Muslim Sultans in return for the lofty titles that they got from the Muslim Sultans. The period can also be seen as one of the debacle and moral decline of the Marathas.

The beginning of the 17th century saw many Marathas in high positions in the service of the Ahmednagar, Bijapur and Golkonda governments. It was Chhatrapati Shivaji Bhosale, who organized the Marathas under one banner and established in Maharashtra a native Maratha dynasty. Shivaji inspired the whole of Maharashtra with all its castes by his deeds and united them to fight, at first the southern sultans and then the Mughals under Aurangzeb. This spirit of Shivaji and the Marathas was reflected in the lines of Ramdas

मराठा तितुका मेळवावा, महाराष्ट्र धर्म वाढवावा।

(*maratha tituka melvava maharashtra dharma vavava*)

Which meant to unite all who are Marathas together, and to propagate the Dharma (religion) of Maharashtra. The word 'Maratha' denotes not caste but all the people of Maharashtra. Dharma is clearly the process of unification of a great Rashtra, which was the only aim and policy of Shivaji of a united nation against foreign rule. The zeal for a unified nation under the Marathas never saw a backdrop since then. The successors of Shivaji vehemently worked for the dreams and goals of Shivaji.

The consolidation of the Marathas had started during the period of Shivaji himself and carried forward during Sambhaji, Rajaram, Sahuji and under the Peshwas. The division of power in the mid-18th century brought into light the Peshwas, who changed the entire discourse of the Marathas. The Chhatrapati was now in Satara, who handed all the effective powers into the hands of the Peshwa at Poona. These changes in the seat of power from the Deccan Sultanate to the Peshwa eventually, were reflected greatly in the judicial administration of the region.

There were two types of administrative bodies that took care of the dispensation of justice to the people, first at the local and then at the central level.

At the local level were the *Majlis*, the *Gotasabha*, the *Jaatisabha* and the *Brahmasabha*. They had judicial authority over suits related to all matters and castes. This was an invention of Shivaji and continued till the time of Shahuji. These judicial institutions were assisted by the *Sarsubhedars, Subhedars* or *Mamlatadars, Sethe Mahajans* and *Patils*. At the central level, the king was the ultimate authority and the judicial head of the Maratha power. He designated two special ministers as central judicial heads – the *Nayayadhish* (Chief Justice) and the *Panditrao* (minister to administer religious matters). In *Dharmasabha* (judicial assembly), the king was assisted by his ministers (*Rajmudras*) in every suit.

There were drastic changes that were introduced from the time of the Peshwas. the Peshwas used the Panchayats as the chief judicial body at the local level replacing the Majlis and the Gota. The Panchayats became the core of examining suits. All local officials, including the Sarsubhedars, Subhedars or Mamlatadars, Sethe Mahajans and Patils were ordered by the government to get the suit solved through the Panchayats. They dealt with both original and appellate cases. However, it is said that the decisions of the Panchayats could not be valid unless duly signed by the State. The panchayat was a body of respectful villages. In the absence of written law in the land, the Panchayats largely depended upon the traditional 'Hindu' laws of the land. The panchayats were formed according to a particular law and were neither bound under any particular form, its only objective was to ascertain the truth. The most remarkable feature of these systems was that they provided cheap and undelayed justice in conformity with the law of the land and its local variations. These systems combined the executive and judicial authorities together but were yet different.

The executive officer who presided over the judicial tribunals was aided and restricted by his non-executive colleagues on the tribunal. These political authorities only interfered when there was a judicial miscarriage of justice. During the Peshwa period, the Panchayat became the most accepted form of transacting judicial business, though there seems to have had very little substantial difference between the old majlis and the Panchayat. The composition of the Panchayat was based on having an odd number of members, generally five, but they could vary depending upon the cases.

The Panchayat worked in the most democratic form. The composition of the *Punchs*, the ordeals followed and the hearing of the Panchayat were held at public places. The cause of dispute or complaint should be written on one side of a paper and the award or sentence on the other with the names of the persons forming the Punchayet affixed, stating on whose part each is selected, and this paper to be countersigned and sealed by the Mamlatdar.

Scholars like S.N. Sen, and Wagle argue that sastric norms were not followed by the Panchayat and that the people had negligible knowledge about Hindu traditional laws. However, Uma Chakravarti argues that the Peshwa's increasing recourse to Brahmanic interpretations led to the expansion of Brahmanical gender ideology. It should not be forgotten that after Shivaji was enthroned at Raigad in 1674, he committed himself to the policy of conservation of all Hindu institutions.

The establishment of the *Asthapradhan Mandal* was a major breakthrough in the administrative reforms of Chhatrapati Shivaji. One of the important components of the *Asthapradhan Mandal* was the Chief Justice or *Nyayadhish.* Dispensation of justice at the centre was carried out by the Chhatrapati and the Peshwas under the supervision of the *Nyayadhish*. Traditional customs and Sastric laws were chiefly prominent.

There were two types of administrative bodies that administered justice, the first was at the Centre under the Chhatrapati or the Peshwa and the second at the local level, administered under various judicial institutions like the Majlis, the Gotasabha, the Jaati Sabha the Brahmasabha, the Panchayat, and so on. Each of these cases was well documented and recorded. Witnesses played a prominent role in resolving suits. There were certain procedural laws for the witnesses before they could record their testimony, as the Marathas believed in divinity and faith to solve cases.

Once the cases were resolved, the parties would be given an official document in the form of an award for the justice delivered, known as the Nivadhpatra. On the other hand, there were procedures for *prayaschita* that were performed to be reaccepted to societal normalcy.

The Maratha State of the 17th and 18th centuries could be something described as a 'soft state.'[1] The kingdom went through constant military conflicts and faced near

[1] Guha Sumit, *An Indian Penal Regime: Maharashtra in the Eighteenth Century,* Past & Present, No. 147, Oxford University Press, 1995, p.125.

destruction 1790s after the death of its first two Chhatrapatis. External pressure was compounded by internal chaos, with the allied Maratha nobles and Sardars wandering freely throughout the Swarajya territories nominally accepting and often outrightly denying the authority of the Chhatrapati. The judiciary powers and limits of a State were an extension of the actual political power and enforcing authority of a pre-modern State.

At the end of the long wars, a new Maratha State was created, which was "…neither a compact kingdom, nor a series of compact fiefdoms."[2] Several competing centres of power were created, and continued to be created under the Peshwa regime. All these elements jealously guarded their powers and rights in what they considered as their patrimony, 'granted' by a higher authority like the Chhatrapati or the Peshwas. The profession of a judge, how much part-time it was, still yielded substantial income to the one who delivered justice. The cash-trapped Maratha officials and Sardars were ever ready to act as mediate in any case which would reward them with *Harki, Sherni* or *Gunhegari* or court fees.

However, substantial leniency was shown whenever one party was a powerful individual belonging to a prominent clan, to risk full for the weak State to interfere. These elements also delivered their own 'justices' as they deemed fit. None, not even the Peshwa sometimes dared to question them, since political expediency overweighed concerns about the proper conduct of justice. The Peshwas, his allied Sardars, and the old nobility all exercised their own justice in ways they deemed fit.

The alienation of judicial rights went to further levels when even private individuals could apprehend and 'punish' lawbreakers. Merchants and bankers became an important class of people under the Peshwas, who relied on them to collect taxes and provide funds for the never-ending military campaigns. Creditors 'arrested' defaulting debtors to retrieve their dues. The Maratha State, while tolerating such actions, interfered when the creditors went so far to 'execute' the defaulters.

The Marathas, however, did try to create a centralised judiciary throughout its realm, descending from the royal court from above. Shivaji had his Rajmandal and Nyayadish.

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[2] Stewart Gordon, *The Marathas 1600-1818*, The New Cambridge History of India, Vol. II. 4, Cambridge University Press, Cambridge, 1993. Reprinted by Foundation Books, New Delhi, 1993, p.111.

The Peshwas had their Kotwal system. And throughout its existence, legal treatises and compilation of old civil and criminal cases were occasionally created, probably with the intention that one day, a proper judicial apparatus could be created. However, political instability gradually affected the ability of the Maratha State paralysed all its wings, including the judiciary, and the Maratha State effectively ceased to exist by the year 1818.

The economy of the region was dependent on agriculture for its subsistence. Maritime trade was evolving but had certainly not hit its peak. The region of Western Maharashtra was cursed with frequent famines and the year 1630 – 31 witnessed the first great famine, which perished over one million people in the Ahmednagar district alone. A series of major famines is reported in the Deccan during 1655, 1682 and 1684. Naturally, this deteriorated the economic condition of the region.

The Marathas were at frequent war with the Mughals. This damaged the areas of Pune, Junnar, Udgir and Ausa region. The port cities were under frequent threat from the Portuguese. Therefore, due to natural calamities of famines and diseases, frequent wars and unfavourable factors, it is difficult to say that economy could gain at the expected pace.

When Chhatrapati Shahu Maharaj came to the throne, he had an empty treasury with a relatively small army. Although he acquired Sanads from the Mughal Court, but it did not become easy to recover from various sources. The territories were either under the local feudal lords or Mughal Sardars. To get money, he needed more troops and vice–versa. Holding his enemy at bay also required money. Therefore, he depended on his ministers to draw new plans and expected them to work out new plans to expand the army and defence strategy. All these activities forced the government to extract money from internal and external sources.

A number of steps were taken to overcome the financial burden that pushed the Maratha regime. Some of these steps were – cumulative deposits, giving contracts to people to provide wages to the army, taking advances from the inner sources i.e. land revenue and giving demand drafts for repayments, yearly agreements to finance special war funds, etc.

Fines were a major source of generating revenue during the time. They ranged from small sums as half a rupee to thousands of rupees. While it was kept in mind that fines would be collected depending of the livelihood of the offender (*jiwan mafik*), it could

be collected in whatever cases that came to the authorities. There were provisions of paying fines in instalments. If the offender was unable to pay all his fines at one time, he could take permissions from the panchayat to pay them over a period of time. Money was extracted even during the trials in the form of fees for the authorities. Eventually the offenders had to pay *Gunehgari* (fines) and the winning party had to *Harki* or *Khushi Shreni*, (although there is no mention that I have yet come through in the documents that says of these *Harki* being a compulsion, it was a payment that the winning party voluntarily offered to pay. However, almost all the cases mention about a certain amount of money they paid to the authorities as *Harki*) The *Kotwal* documents often mention moneylenders as they lent money to offenders. Fines were extracted for consumption of alcohol, sexual misconduct was the most lucrative source of collection of fines, even in cases of murder when one was punished with imprisonment one could be released on fulfilling the demands of paying fines. Offenders could escape of the crime of murder by just paying fines.

The legal system and judicial verdicts concerning women were heavily influenced by social practices, and in turn, these verdicts played a significant role in shaping the position of women in society, their rights, obligations, and more. To explore the relationship between judicial laws, verdicts related to women, and the social position of women. There are cases where women were fined for their *badkarma* (adultery). The adulteress who could not pay any amount of fine were sent to prison, where they had to work hard in doing construction work. There are cases where these adulteresses were sold off like ordinary articles from the prison in lieu of the fine that needed to be generated. Fines were paid by the offenders and it was extracted in any manner the state could. However, there was another mode of fine that was generally levied upon everyone involved in a case. It was considered a sin to be involved in any case in the Maratha country. Therefore, after every case, people involved in a suit had to go through a purification process called *prayaschita*. This was the penance for societal acceptance.[3] In order to get purified, the caste assemblies went through this process. This involved feeding the Brahmins or at times paying a certain amount to be completely purified and be accepted by society without bias. For example, Baku Pethi, a woman who had contrived the death of her adoptive brother, had to pay one thousand

[3] S. N. Sen, *Administrative System of the Marathas*, Ananda press and Publication Pvt. Ltd. Calcutta, 1925, pp 397 – 398.

rupees for permission to undergo *prayaschita* and another one thousand rupees for the crime of murder, as a fine. Therefore, in Maratha country a convict had to go through duel punishment, one by the society and the other by the state.

We see that collection of fines remained the primary focus of the Maratha administration. Whatever remained the crime, the offender could overcome his/her punishment by paying a fine. The administration was exceptionally interested in the collection of revenue from fines is evident from one of the statements from the authorities in 1783 – 84, addressing Satvoji Gavde, a commander of the government cavalry, 'You consider and settle people's quarrels and disputes. The fines, fees, and debt–recovery charges that have accrued, and will accrue, you will credit to the account of the unit in your charge.'[4]

There are innumerable cases as such adultery, murder, theft, and others that define punishments as a source of generating revenue. The nature of these judicial institutions was more bent towards filling up the treasury.

There were nearly four hundred and fifty forts that were under the control of the Marathas. These forts were used for the purpose of defending the Marathas from any external forces. Maratha forts were constructed at statical locations. These forts were administered under various officials. However, these forts needed to be occupied and maintained perennially. Under these circumstances, imprisonment was a cheap labour force for the maintenance of these forts. Prisoners both men and women could be usefully employed and cheaply detained. Since, according to customs, Brahmins and women were exempted from capital punishment, imprisonment was generally inflicted upon them on account of their caste and gender respectively. Usually, there were detention rooms in these forts known as *Bandikhanas* and *Adabkhanas* that were used for keeping these prisoners.

In a society that is based on written laws, cases may be solved via the analysis of written codes. Punishments may be inflicted based on the records. However, the issue with the Marathas was more complicated in the absence of written codes. In addition, the issue became more complicated considering the fact that the Marathas had a shifting political boundary, often indefinite jurisdiction, in which several unwritten and customary laws

[4] Parasnis D. B., *Selections From the Satara Rajas and the Peshwas Diaries*, Vol. VIII, Indu Prakash Press, Bombay, 1906, p129.

were invoked. The evaluation of these judicial institutions at various locations and at different times provides an interesting correlation between the state and the corresponding development and popularity of justice delivered to the subjects depending upon situations and the nature of crimes.